



भारत का राजपत्र

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नई दिल्ली, शनिवार, जुलाई 27, 1996/आवण ५, 1918

No. 30]

NEW DELHI, SATURDAY, JULY 27, 1996/SRAVANA 5, 1918

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह बगान संकाय के रूप में
रखा जा सके।

Separate Paging is given to this Part in order that it may be filed as a
separate compilation.

भाग II—बाण ३—पृष्ठ-पृष्ठ (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार द्वे नोटिसों (एवं संकाय को छोड़कर) द्वारा आदी विषयक जारी की अधिकृत घोषणाएँ

Statutory Orders and Notifications Issued by the Ministry of the Government of India
(Other than the Ministry of Defence)

विधि और न्याय कम्पनी कार्य संसालय
(विधि कार्य विभाग)
(न्यायिक अनुभाग)

सूचना

नई दिल्ली, 5 जुलाई, 1996

का. आ. 2200—नोटरीज नियम, 1956 के
नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना
दी जाती है कि श्री कैलाश चन्द ठाकुरिया, एडवोकेट ने
उक्त प्राधिकारी को उक्त नियम के नियम 4 के प्रधीन एक
आवेदन इस बात के लिए दिया है कि उसे अलवर सिटी
(राजस्थान) में व्यवसाय करने के लिए नोटरी के रूप में
नियुक्ति पर किसी भी प्रकार का आशेष इस सूचना के
प्रकाशन के चौथह दिन के भीतर लिखित रूप से मेरे पास
भेजा जाए।

[सं. ५ (147)/96 न्यायिक]

पी. सी. कण्णन्, सक्षम प्राधिकारी

MINISTRY OF LAW, JUSTICE & CA
(Department of Legal Affairs)
(Judicial Section)

NOTICE
New Delhi, the 5th July, 1996

S.O. 2200.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Kailash Chand Thakuria, Advocate for appointment as a Notary to practise in Alwar City (Rajasthan).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(147)/96-Judl.]

P. C. KANNAN, Competent Authority.

सूचना

नई दिल्ली, 5 जुलाई, 1996

का. आ. 2201—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री कुमुम कान्त भट्ट, एडवोकेट को उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे निम्बाहेड़ा उप खण्ड चित्तौड़ गढ़ जिला (राजस्थान) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं 5(142)/96 न्यायिक]

पी. सी. कण्णन्, सक्षम प्राधिकारी

NOTICE

New Delhi, the 5th July, 1996

S.O. 2201.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Sh. Kusum Kant Bhatt, Advocate for appointment as a Notary to practise in Nimbahera sub Div. Distt. Chittoregarh (Rajasthan).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(142)/96-Judl.]

P. C. KANNAN, Competent Authority

सूचना

नई दिल्ली, 5 जुलाई, 1996

का. आ. 2202—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री विनायक रामबन्द्र कोलाम्बेकर, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे मुम्बई सिटी (महाराष्ट्र) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5 (146)/96 न्यायिक]

पी. सी. कण्णन्, सक्षम प्राधिकारी

NOTICE

New Delhi, the 5th July, 1996

S.O. 2202.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries

Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Sh. Vinayak Ramchandra Kolambekar, Advocate for appointment as a Notary to practise in Mumbai City (Maharashtra).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F.5(146)/96-Judl.]

P. C. KANNAN, Competent Authority

सूचना

नई दिल्ली, 9 जुलाई, 1996

का. आ. 2203.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री नगेन्द्र नाथ सील, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे सिटी सिविल एवं सैनान कोर्ट, कलकत्ता, पश्चिम बंगाल में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में मेरे पास भेजा जाए।

[संख्या 5 (143) /96-न्यायिक]

पी. सी. कण्णन्, सक्षम प्राधिकारी

NOTICE

New Delhi, the 9th July, 1996

S.O. 2203.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Sh. Nagendra Nath Seal, Advocate for appointment as a Notary to practise in City Civil Court, Calcutta, (West Bengal).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(143)/96-Judl.]
P. C. KANNAN, Competent Authority

सूचना

नई दिल्ली, 9 जुलाई, 1996

का. आ. 2204.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री दिनकर राव केंजो पाटील, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिये दिया है कि उसे विहित गांव, नासिक जिला (महाराष्ट्र) में व्यवसाय करने के लिये

नोटरों के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(148)/96-न्यायिक]

पी.सी. कण्णन्, सक्षम प्राधिकारी

NOTICE

New Delhi, the 9th July, 1996

S.O. 2204.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Sh. Deokarttāo Kertiji Patel, Advocate for appointment as a Notary to practise in Vihitaon, Distt. Nashik (Maharashtra).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(148)/96-Judl.]

P. C. KANNAN, Competent Authority.

सूचना

नई दिल्ली, 10 जून 1996

का.ग्रा. 2205—नोटराज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री लाल चंद्र जायसवाल, एड्योकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आधेदन इस बात के लिये दिया है कि उसे अपीलेट कोर्ट (रिहेन्यू) इलाहाबाद जिला (उत्तर प्रदेश) में व्यवसाय करने के लिये नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(150)/96-न्यायिक]

पी.सी. कण्णन्, सक्षम प्राधिकारी

NOTICE

New Delhi, the 10th July, 1996

S.O. 2205.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Sh. Lal Chandra Jaiswal, Advocate for appointment as a Notary to practise in Appellate Court (Revenue) Distt. of Allahabad (U.P.).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to

the undersigned within fourteen days of the publication of this notice.

[No. F. 5(150)/96-Judl.]

P. C. KANNAN, Competent Authority.

सूचना

नई दिल्ली, 10 जून 1996

का.ग्रा. 2206—नोटराज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री रजनीकान्त श्रीवास्तव, एड्योकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आधेदन इस बात के लिये दिया है कि उसे अपीलेट कोर्ट (रिहेन्यू) इलाहाबाद जिला (उत्तर प्रदेश) में व्यवसाय करने के लिये नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(151)/96-न्यायिक]

पी.सी. कण्णन्, सक्षम प्राधिकारी

NOTICE

New Delhi, the 10th July, 1996

S.O. 2206.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Sh. Rajnikant Srivastava, Advocate for appointment as a Notary to practise in Appellate Court (Revenue) Distt. of Allahabad (U.P.).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(151)/96-Judl.]

P. C. KANNAN, Competent Authority.

सूचना

नई दिल्ली, 10 जून 1996

का.ग्रा. 2207—नोटराज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्रीमती विलन धोष, एड्योकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आधेदन इस धात के लिये दिया है कि उसे भूलाभाई देसाई रोड, बम्बई (महाराष्ट्र) में व्यवसाय करने के लिये नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(149)/96-न्यायिक]

पी.सी. कण्णन्, सक्षम प्राधिकारी

NOTICE

New Delhi, the 10th July, 1996

S.O. 2207.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Smt. Milan Ghosh, Advocate for appointment as a Notary to practise in Bhulabhai Desai Road, Mumbai (Maharashtra).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(149)|96-Judl.]

P. C. KANNAN, Competent Authority.

सूचना

नई विली, 10 जुलाई, 1996

का.आ. 2208—नोटरीज नियम; 1956 के नियम 6 के प्रत्युत्तरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री बैलाल नाथ गापेय, एडब्ल्यूकेट ने उक्त प्राधिकारी को उक्त नियम के बिंदु 4 के अधीन एक आपेदन इस बात के लिये दिया है कि उसे ग्राहित यथावती (मध्य प्रदेश) में व्यवसाय करने के लिये नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौथह दिन के भोतर लिखित रूप से मेरेपास भेजा जाये।

[सं. 5(152)/96-न्यायिक]

पी.सी. कन्नन्, सक्षम प्राधिकारी

NOTICE

New Delhi, the 10th July, 1996

S.O. 2208.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Sh. Kailash Narayan Pandey, Advocate for appointment as a Notary to practise in Gwalior Shinde Ki Chhawani Area (M.P.).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(152)|96-Judl.]

P. C. KANNAN, Competent Authority.

विली संबालय

केन्द्रीय उत्पाद एवं सीमा-प्राप्ति आयुक्त का कार्यालय
नागपुर, 21 अप्रैल, 1996

का.आ. 2209—श्री प.जी. नारु, प्रधीभक्त समूह “ख” केन्द्रीय उत्पाद प्राप्ति प्राप्ति संस्थान, नागपुर निवासन को आयु प्राप्त करने पर दिनांक 30-4-96 को घरानाम में शासकीय सेवा से निवृत हुए हैं।

[फा.सं. II (3)/3, 85- स्था. 1/9854]
मार.जे. बेल, अपरआयुक्त (कार्यालय एवं सरकारी)

MINISTRY OF FINANCE
(Office of the Commissioner of Central Excise)
Nagpur, the 21st April, 1996

S.O. 2209.—Shri A.G. Natu, Superintendent Group ‘B’ Central Excise Commissionate, Nagpur having attained the age of superannuation retired from Government service on 30-4-96 in the afternoon.

[C. No. II(3)3/95/Est. I/9854]
R. J. BELEY, Addl. Commissioner (P&V)

नई विली, 7 मई, 1996

(आयकर)

का.आ. 2210—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के छंड (23-ग) के उपखंड 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा “श्री काशी मठ संस्थान, बम्बई,” को कर निर्धारित वर्ष 1996-97 से 1998-99 तक के लिए निम्नलिखित शर्तों के अध्यधीन रहते हुए उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

(i) कर निर्धारिती इसकी आय का इस्तेमाल अथवा इसकी आय का इस्तेमाल करने के लिए उसका संबंधन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है,

(ii) कर निर्धारिती ऊपर उल्लिखित कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिविष्ट किसी एक अवधि एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से इसकी निधि (जेवर, जवाहिरात, फर्नीचर आदि के रूप में प्राप्त तथा रख रखाव में स्वैच्छिक अंदाज से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;

(iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी जो कि कारोबार से प्राप्त लाभ तथा अधिलाभ के रूप में हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्राप्तिग्राही हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तकाएं नहीं रखी जाती हों।

[अधिसूचना सं. 10080 फा.सं. 197/57/96 आयकर
(नि-I)]

एच. के. चौधरी, अपर सचिव

DEPARTMENT OF REVENUE

New Delhi, the 7th May, 1996

(INCOME TAX)

S.O. 2210.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Sri Kashi Math Samsthana, Bombay" for the purpose of the said sub-clause for the assessment years 1996-97 to 1998-99 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 10080/F. No. 197/57/96-ITA-I]

H. K. CHOUDHARY, Under Secy.

नई दिल्ली, 12 जुलाई, 1996

आयकर

का. आ. 2211.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23) द्वारा प्रदत्त विक्रियों का प्रयोग करते हुए केन्द्रीय सरकार एवं द्वारा "भारतीय क्रिकेट कंट्रोल बोर्ड" को 1996-97 से 1998-99 तक के कर-निर्धारण वर्षों के लिए निम्नलिखित मात्रों पर उक्त खंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर-निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने हेतु उसका संचयन इस प्रकार के संचयन हेतु उक्त खंड (23) द्वारा यथा संशोधित धारा 10 की उपधारा (2) तथा (3) के उपबंधों के अनुरूप पूर्णतया तथा अनन्यता उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;
- (ii) कर निर्धारिती ऊपर उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विविध किसी एक अथवा एक से अधिक छंग अथवा तरोकों से भिन्न तरीकों से उसकी निधि (जेवर जबाहिरात, फर्नीचर अथवा किसी अन्यवस्तु, जिसे उपर्युक्त खंड (23) के तीसरे

परन्तुक द्वारा अधिसूचित किया जाए, के स्पष्ट में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान से भिन्न का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा ;

- (iii) कर निर्धारिती अपने सदस्यों को किसी भी तरीके से अपनी आय के किसी भाग का संवितरण अपने से संबद्ध किसी एसोसिएशन अथवा संस्था को अनुदान के प्रलापा नहीं करेगा; और
- (iv) यह अधिसूचना किसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार से प्राप्त लाभ तथा अभिलाभ हों जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों।

[प. सं. 10149 फा. सं. 196/15/96-आयकर नि -I)]

एच. के. चौधरी, अवर सचिव

(Department of Revenue)

New Delhi, the 12th July, 1996

(INCOME TAX)

S.O. 2211.—In exercise of the powers conferred by clause (23) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "The Board of control for Cricket in India" for the purpose of the said clause for the assessment years 1996-97 to 1998-99 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate it for application, in consonance with the provisions of sub-section (2) and (3) of Section 11 as modified by the said clause (23) for such accumulation wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture or any other article as may be notified by the Board under the third provision to the aforesaid clause (23) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) the assessee will not distribute any part of its income in any manner to its members except as grants to any association or institution affiliated to it ; and
- (iv) this notification will not apply in relation to any income, being profits and gains of business, unless the business is incidental to

the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 10149|F. No. 196/15/96-ITA-I]

H. K. CHOUDHARY, Under Secy.

नई दिल्ली, 12 जुलाई, 1996

आयकर

का. आ. 2212.—प्रायकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एवं द्वारा व्यक्तिगत एवं सिएशन आफ इंजिनियर नई दिल्ली को 1991-92 से 1993-94 तक के कर निर्धारण वर्षों के लिए निम्नलिखित शर्तों पर उक्त खंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

(i) कर-निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने हेतु उसका संचयन इस प्रकार के संबंधन हेतु उक्त खंड (23) द्वारा यथा नियमित धारा 10 की उपधारा (2) तथा (3) के उद्देश्यों के अनुरूप पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, किन्तु लिए इसकी स्थिति की गई है :

(ii) कर-निर्धारिती ऊपर उल्लिखित बर-नियमित वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी जबविधि वे दोनों धारा (ii) की उपधारा (5) में विविदिष्ट किसी एक अथवा एक से अधिक ढंग अवज्ञा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर, जवाहिरात, पर्नीचर, इथवा किसी अन्य वस्तु, जिसे उपर्युक्त खंड (23) के तीसरे परन्तु के अधीन दोड़ द्वारा अधिसूचित किया जाए, के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंश (जैसे भिन्न) का निवेश नहीं करेगा

(iii) कर निर्धारिती अपने उद्देश्यों को किसी भी तरीके से अपनी आय के विस्तीर्ण अपने से संबद्ध किसी एगोस्तिएशन अथवा संस्था को अनुदान के अलावा नहीं करेगा; और

(iv) यह अधिसूचना किसी ऐसी आय के दंबिंध में लागू नहीं होती, जो कि कारोबार से प्राप्त लाभ तथा अभिनाश हों जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति हेतु प्राप्तिक नहीं हो तगे ऐसे कारोबार के संबंध में अन्य से लेखा पुस्तकाएं नहीं रखी जाती हों।

[अधिसूचना सं. 10150/फा. सं. 196/22/95 आ क नि-1]

एव. के. चौधरी, अदान सचिव

New Delhi, the 12th July, 1996

(INCOME TAX)

S.O. 2212.—In exercise of the powers conferred by clause (23) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Yachting Association of India, New Delhi" for the purpose of the said clause for assessment years 1991-92 to 1993-94 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate it for application, in consonance with the provisions of sub-section (2) and (3) of Section 11 as modified by the said clause (23) for such accumulation wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture or any other article as may be notified by the Board under the third provision to the aforesaid clause (23) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) the assessee will not distribute any part of its income in any manner to its members except as grants to any association or institution affiliated to it; and
- (iv) this notification will not apply in relation to any income, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 10150|F. No. 196/22/95-ITA-I]

H. K. CHOUDHARY, Under Secy.

वाणिज्य मंड़ालय

विदेश व्यापार महानिदेशालय

नई दिल्ली, 5 जुलाई, 1996

का. आ. 2213.—मैसर्स वैयर इण्डस्ट्रीज लिमिटेड तिरहुतिरापुल्ली का नये पुंजीगत माल के आयात के लिये 9,64,32,038/-र. (नौ करोड़ चौसठ लाख, बत्तीस हजार, अष्टतीस रुपये) का आयात लाइसेंस संख्या पी/सी/जी/2134461, दारांश 26-7-95 प्रदान किया गया था।

2. इस फर्म ने इस आधार पर उपर्युक्त लाइसेंस की विनियम नियंत्रक प्रयोजन प्रति की अनुलिपि जारी

करने के क्रिये आवेदन किया है कि लाइसेंस की मूल विनियम नियंत्रण प्रति खो गई है अथवा अस्थानस्थ हो गई है।

3. अपने आवाय के समर्थन में लाइसेंसधारी ने तिरुची शहर के नोटरी पंजीयन में सामने दिए थे कि लाइसेंस की मूल विनियम नियंत्रण प्रति खो गई है अथवा अस्थानस्थ हो गई है। यथा संशोधित आवाय (नियंत्रण) आवेदन, 1955, तारीख 7-12-1955 के उप-खण्ड 9 (सो-सो) के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स केथर एंड स्ट्रीज लिमिटेड, तिरुचिरापल्ली को जारी उक्त मूल विनियम नियंत्रण प्रयोजन प्रति एकदृष्टा रह की जाती है।

4. पार्टी को उक्त लाइसेंस को एक अनुलिपि विनियम नियंत्रण प्रयोजन प्रति अलग से जारी को जा रही है।

[फाइल सं. 18/1277/ए.एम. 95/इ.पी.
सी. जी-2/119]

के. चन्द्रावती, उप महानिदेशक

MINISTRY OF COMMERCE
(Directorate General of Foreign Trade)

New Delhi, the 5th July, 1996

S.O. 2213.—M/s. Cethar Industries Ltd., Tiruchirapalli were granted Import licence No. P/CG/2134461 dated 26th July, 1995 for Rs. 9,64,32,038 (Rs. Nine Crores Sixty Four Lakhs Thirty Two Thousand & Thirty Eight only) for import of new capital goods.

2. The first has applied for issue of Duplicate copy of Exchange Control Purposes copy of the above mentioned licence on the ground that the original Exchange Control copy of the licence has been lost or misplaced.

3. In support of their contention, the licensee has filed an affidavit on stamped paper duly sworn in before a Notary Public, Tiruchy Town. I am accordingly satisfied that the original Exchange Control Purpose copy of the import licence No. P/CG/2134461 dated 26th July, 1995 has been lost or misplaced by the firm. In exercise of the powers conferred under Sub-clause 9(cc) of the import (Control) order, 1955 dated 7th December, 1955, as amended the said original Exchange Control Purpose copy issued to M/s. Cethar Industries Ltd., Tiruchirapalli is hereby cancelled.

4. A duplicate Exchange Control Purpose Copy of the said licence is being issued to the party separately.

[F. No. 18/1277/AM'95/EPCG-II/119]

K. CHANDRAMATTI, Dy. Director Genl.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय
संशोधन

नई दिल्ली, 15 जुलाई, 1996

का.इ. 2214:—मार। के राजपत्र दिवांग 20-10-94 के भाग II खण्ड-3, उम्मेद (ii) में पेट्रोलियम और प्राकृतिक गैस मंत्रालय, भारत राष्ट्रीय के का.आ. संज्ञा-1967 दिवांग 3-9-94 से पेट्रोलियम और खनियां पाला लाईन (भूमि में जलयोग के अधिकार का धर्जन) अधिनियम 1962 (1962 का 50) को धारा 3 का उपचारा (1) के अन्तर्गत शक्तियां अविस्तृत कराया गया था। यह अधिनियम विनियोग सुनिश्चित करने के लिए जिला शिक्षकरुंग के संबंध में यह को ग्रन्तीन्दार पढ़ा जाय।

राजपत्र के अनुसार		निम्न संशोधन के अनुसार पढ़ा जायेगा		
क्रम सं.	सर्वे संख्या	धेनकल हेक्टेर में	सर्वे संख्या	धेनकल हेक्टेर में
1.	709	0.1690	708	0.1888
	--	--	505	0.1650
3.	706	0.1396	507	0.2590
4.	707	0.0261	508	0.2040
5.	704	0.1050	509	0.0400
6.	702	0.1490	--	--
7.	700	0.1930	--	--
9.	697	0.0045	516	0.0900
10.	696	0.2699	517	0.0660
	--	--	518	0.1710
11.	695	0.1590	519	0.0750
	--	--	661	0.0840
12.	662	0.1490	660	0.1560
13.	664	0.3620	663	0.0320
14.	665	0.1145	659	0.1960
17.	656	0.1808	539	0.1050
19.	653	0.0294	544	0.0300
22.	610	0.0330	607	0.0585
25.	601	0.1268	605	0.0300
27.	603	0.0580	596	0.3170

[संख्या नं. 14016/8/95-जी.पी.]

प्रधानमंत्री सेन, निवेशक

MINISTRY OF PETROLEUM & NATURAL GAS

CORRIGENDUM

New Delhi, the 15th July, 1996

S.O. 2214.—In the Gazette of India, Ministry of Petroleum and Natural Gas S.O. No. 2976 dated 22-9-94 published on 29-10-94 under sub section (i) of section 3 of the Petroleum and Mineral Pipeline (Acquisition of Right of Users in Land) Act, 1962 (50 of 1962) in respect of village

Binherakhurd, Tehsil Pohari, District Shivpuri be read as follows :—

As per Gazette		Be Read as Corrected Below		लेख												
Sr. No.	Survey No.	Area in Hectare	Survey No.	Area in Hectare	गाँव	बि. एन सं.	प्लाट संख्या	हेक्टर	आरे सेटों आरे	1	2	3	4	5	6	
1. 709	0.1690	708	0.1888		उच्चमुकुर	111	139	0	22	56						
2. —	—	505	0.1650				105	0	9	31						
3. 706	0.1396	507	0.2590				140	0	0	40						
4. 707	0.0261	508	0.2040				107	0	4	45						
5. 704	0.1050	509	0.0400				114	0	0	40						
6. 702	0.1490	—	—				112	0	0	40						
7. 700	0.1930	—	—				111	0	12	14						
9. 697	0.0045	516	0.0900				110	0	5	67						
10. 696	0.2699	517	0.0660		अंचनमुकुर	110	269	0	9	9						
—	—	518	0.1710				271	0	4	86						
11. 695	0.1590	519	0.0750				280	0	5	67						
—	—	661	0.0840				281	0	4	45						
12. 662	0.1490	660	0.1560				288	0	8	70						
13. 664	0.3620	663	0.0320				286	0	5	16						
14. 665	0.1145	659	0.1960				254	0	1	21						
17. 656	0.1808	539	0.1050				289	0	1	21						
19. 653	0.0294	544	0.0300				390	0	10	12						
22. 610	0.0330	607	0.0585				300	0	4	5						
25. 602	0.1268	605	0.0300				299	0	2	2						
27. 603	0.0580	596	0.3170				296	0	4	45						
							297	0	1	21						
							294	0	1	62						
							295	0	6	7						
							315	0	9	71						
							314	0	5	26						
							313	0	0	40						
							335	0	0	81						
							334	0	6	67						
							336	0	6	7						
							540	0	0	40						
							539	0	0	81						
							538	0	0	81						
							885	0	1	21						
							884	0	0	81						
							883	0	4	45						
							541	0	4	5						
							542	0	3	24						
							543	0	1	62						
							556	0	0	40						
							535	0	0	40						
							534	0	4	5						
							532	0	2	83						
							531	0	5	26						
							530	0	0	81						
							511	0	19	43						
							670	0	2	43						
							645	0	8	9						

[No. L—14016/8/95-G.P.]

ARDHENDU SEN, Director

नई दिल्ली, 18 जूलाई, 1996

का. आ. 2215.—केन्द्रीय सरकार को 4ह प्रतीत होता है कि लोकहित में ऐसा करना आवश्यक है कि परिवहन व्यापार राज्य के हृष्णपुर से विहार राज्य के बरोनों तक पेट्रोलियम (कूड़) के परिवहन के लिए इंडियन प्रायाल फारपोरेशन लि. द्वारा पाइपलाइन बिछाई जाए।

और उक्त पाइपलाइन बिछाने के लिए अधिसूचना से संलग्न अनुसूची में घण्टित भूमि में उपयोग के अधिकार का अंजन करना आवश्यक है।

अतः अब केन्द्रीय सरकार, पेट्रोलियम और अन्तिम पाइपलाइन (भूमि में उपयोग के अधिकार का अंजन) अधिनियम, 1962 (1962 का 50) की धारा 3 को उपयोग (1) द्वारा प्रवत्त शक्तियों का उपयोग करते हुए उनमें उपयोग के अधिकार का अंजन करने के अपने भाग वाले धारणा करते हैं।

उक्त अनुसूची में घण्टित भूमि में हितबद्ध कोई अधिकत उस सारीष से जिसको, राजपत्र में यथा प्रकाशित इस अधिसूचना का प्रतियोग साधारण जनता को उपलब्ध करा दी जाती है, 21 दिन के बांतरे, भूमि के नीचे पाइपलाइन बिछाने के संबंध में उनमें उपयोग के अधिकार का अंजन करने संबंधी लिखित रूप में आधिकारी विवरण द्वारा, सकाम प्राधिकारी, ईंटियन प्रायाल कारपोरेशन लिमिटेड, हृष्णपुर बरोनों कूड़ पाइपलाइन परियोजना, डाकघर हृष्णपुर एफाइनरी जिला मिलनापुर, परिषदमां बंगाल को कर सकेगा।

1	2	3	4	5	6	1	2	3	4	5	6
चंदनपुर	110	646	0	0	10		3054	0	1	21	
		649	0	10	12		2229	0	1	21	
		651	0	8	9		2135	0	6	88	
		652	0	3	21		2233	0	4	45	
		661	0	1	21		2234	0	2	83	
		660	0	4	87		2218	0	6	07	
		762	0	0	81		2217	0	4	05	
		761	0	2	43		2214	0	0	81	
		760	0	1	21		2213	0	0	40	
		759	0	7	69		2215	0	2	02	
		771	0	10	12		2212	0	3	24	
		773	0	1	21		2208	0	2	83	
		772	0	5	26		2205	0	4	40	
		770	0	2	43		2204	0	0	40	
		414	0	10	12		2203	0	4	86	
		787	0	4	86		2202	0	2	43	
		788	0	5	26		2201	0	2	02	
		791	0	1	21		1232	0	0	81	
		790	0	5	67		1215	0*	3	64	
		789	0	2	43		1217	0	0	40	
		854	0	1	21		1218	0	0	40	
		899	0	1	21		1219	0	0	40	
		3128	0	0	81		1220	0	0	40	
		3113	0	7	69		1207	0	0	81	
		3112	0	2	2		1208	0	2	43	
		3114	0	1	21		1210	0	2	43	
		3110	0	2	43		3146	0	1	62	
		3109	0	4	45		1117	0	2	02	
		3015	0	2	2		1116	0	1	21	
		3014	0	3	64		1111	0	19	43	
		3016	0	1	21		880	0	0	40	
		3017	0	3	64		875	0	2	02	
		3018	0	9	71		874	0	6	48	
		3019	0	2	20		900	0	0	40	
		3020	0	5	26		1212	0	2	2	
		3021	0	3	64		3111	0	3	64	
		3024	0	5	67	रसूलगंज हाट	114	62	0	11	33
		3090	0	0	40		60	0	25	09	
		3048	0	4	86		61	0	0	40	
		3049	0	1	62		59	0	17	40	
		3050	0	3	24	गिरिधर	102	295	0	10	52
		3052	0	0	40		294	0	13	36	
		3061	0	5	67		293	0	0	40	
		3064	0	0	40		585	0	0	40	
		3060	0	4	05		584	0	1	62	
		3056	0	1	21		600	0	1	21	
		3057	0	0	40		602	0	4	86	
		3058	0	0	81		542	0	0	40	
		2632	0	1	62		288	0	4	45	
		2338	0	2	02		541	0	0	40	
		2337	0	2	02		569	0	19	02	
		2339	0	0	40		49	0	2	43	
		2329	0	4	05	उत्तर शही नगर	103	191	0	10	12
		2328	0	2	83		190	0	10	52	
		2228	0	3	24		192	0	1	21	

1	2	3	4	5	6	1	2	3	4	5	6
उत्तर राज्य कार—(जारी)	103	221	0	1	21		2293	0	2	43	
		164	0	14	16		2295	0	3	24	
		160	0	0	40		2296	0	7	28	
		161	0	1	62		2320	४	0	81	
		162	0	1	21		2319	0	0	40	
		197	0	12	55		2324	0	1	21	
		198	0	6	48		2322	0	19	02	
		208	0	2	83		2323	0	2	02	
		204	0	1	21		2346	0	12	95	
		205	0	11	74		2342	0	5	67	
		207	0	12	95		2356	0	0	40	
		206	0	2	83		2341	0	8	50	
		213	0	2	83		1557	0	8	09	
		214	0	2	83		2321	0	4	45	
		217	0	3	24		1723	0	0	40	
		220	0	2	83	पश्चिम बहावलपुर	53	1574	0	11	33
		219	0	2	43		1575	0	4	86	
		216	0	7	28		1576	0	1	21	
		215	0	2	02		1577	0	12	14	
सायपुर	109	10	0	17	81		1578	0	0	40	
गढ़ियालपुर	105	1701	0	4	45		1579	0	3	24	
		1704	0	2	83		1583	0	4	05	
		1721	0	7	69		1584	0	6	88	
		1720	0	4	86		1585	0	4	86	
		1919	0	2	02		1586	0	5	26	
		1725	0	4	05		1596	0	3	24	
		1724	0	7	69		1598	0	4	86	
		1728	0	1	62	खंडपुर	52	346	0	8	09
		1730	0	10	12		344	0	2	83	
		1729	0	12	55		343	0	2	83	
		1745	0	5	26		347	0	2	83	
		2431	0	10	93		348	0	3	64	
		2034	0	2	43		349	0	6	48	
		2036	0	6	48		350	0	3	24	
		2042	0	14	57		351	0	0	40	
		2043	0	14	57		352	0	6	07	
		2110	0	4	86		353	0	12	55	
		2109	0	11	74		388	0	1	21	
		2137	0	6	88		387	0	0	40	
		2138	0	4	45		386	0	4	05	
		2140	0	4	86		385	0	5	26	
		2141	0	9	71		379	0	0	40	
		2265	0	2	43		380	0	2	02	
		2266	0	5	26		384	0	16	59	
		2264	0	2	83		381	0	0	40	
		2267	0	14	16		382	0	2	83	
		2269	0	2	83		383	0	2	02	
		2270	0	6	88		446	0	4	05	
		2297	0	6	48		445	0	8	09	
		3515	0	1	21		444	0	0	40	
		3514	0	2	02		443	0	1	21	
		3513	0	1	21		442	0	0	81	
		3519	0	7	28		441	0	6	48	
		2291	0	1	21		440	0	2	43	
		2292	0	1	21		439	0	10	52	

1	2	3	4	5	6	1	2	3	4	5	6
कृष्ण पुर—(जारी)	430	0	1	21		3075	0	0	81		
	429	0	1	21		3076	0	3	64		
	501	0	0	40		3081	0	0	81		
	503	0	0	81		7111	0	2	02		
	504	0	5	26		7112	0	1	21		
	505	0	4	05		7113	0	2	02		
	506	0	0	40		7110	0	1	62		
	2926	0	4	86		7123	0	3	24		
	2927	0	2	83		7121	0	3	24		
	8375	0	3	24		7122	0	2	02		
	2928	0	12	95		7120	0	0	20		
	2930	0	0	20		7126	0	0	40		
	2933	0	1	21		7130	0	4	05		
	2934	0	2	83		7440	0	3	64		
	2935	0	1	62		7420	0	1	21		
	2936	0	1	21		7427	0	7	28		
	3953	0	0	49		7422	0	0	40		
	2937	0	0	81		7423	0	0	81		
	2951	0	21	85		7428	0	0	40		
	2971	0	0	40		7426	0	6	48		
	2982	0	0	72		7429	0	4	45		
	2984	0	0	81		7425	0	0	81		
	2980	0	0	40		7430	0	1	62		
	2985	0	4	45		7431	0	0	40		
	8404	0	0	40		7384	0	1	21		
	2988	0	0	40		7539	0	1	62		
	2987	0	1	61		8448	0	3	24		
	2986	0	0	40		7535	0	0	40		
	2992	0	0	40		7536	0	0	40		
	2993	0	2	83		7538	0	2	43		
	2994	0	1	62		7537	0	1	62		
	2995	0	2	43		7542	0	1	21		
	2996	0	0	40		7543	0	4	05		
	3024	0	1	21		7610	0	6	07		
	3777	0	3	64		7531	0	1	21		
	3025	0	3	64		8455	0	4	45		
	3051	0	0	40		8454	0	7	69		
	3049	0	1	21		7828	0	0	20		
	3048	0	0	40		7822	0	4	05		
	3050	0	2	02		7823	0	0	40		
	3052	0	0	40		7821	0	8	50		
	3753	0	3	24		7820	0	4	86		
	3068	0	0	40		7807	0	0	81		
	3064	0	2	02		7854	0	3	24		
	3065	0	3	24		7855	0	3	64		
	3066	0	1	62		7852	0	3	24		
	3067	0	0	40		7858	0	0	40		
	3063	0	1	21		7862	0	2	43		
	3062	0	3	64		7861	0	2	43		
	3061	0	1	62		7860	0	0	81		
	3060	0	0	81		7909	0	2	02		
	3072	0	5	67		7910	0	0	81		
	3073	0	1	62		7912	0	4	86		
	3064	0	0	81		7913	0	14	57		
	3077	0	1	62		7929	0	0	40		

1	2	3	4	5	6	1	2	3	4	5	6
रूप पुर—(आरो)	7928	0	1	62		8367	0	4	86		
	7922	0	0	81		327	0	2	02		
	7923	0	0	40		290	0	8	09		
	8369	0	0	40		322	0	0	40		
	2930	0	0	40		330	0	3	64		
	8478	0	5	67		331	0	7	69		
	8481	0	4	86		332	0	9	31		
	8482	0	5	26		346	0	8	09		
	8139	0	2	83		344	0	2	02		
	8141	0	2	43		343	0	0	40		
	8138	0	1	21		293	0	0	81		
	8137	0	6	48		8369	0	17	40		
	8183	0	2	02		326	0	5	67		
	8165	0	1	62		7120	0	0	20		
	8130	0	0	40		7530	0	0	80		
	8129	0	8	09		7828	0	1	21		
	8128	0	4	86	गोपाल नगर	132	1	0	3	24	
	8127	0	3	24		43	0	13	15		
	8125	0	0	40		6	0	0	20		
	8126	0	6	88		42	0	8	90		
	8124	0	0	40		7	0	2	02		
	8234	0	4	86		39	0	12	55		
	8235	0	4	86		2403	0	1	01		
	8328	0	2	02		2402	0	6	48		
	8231	0	0	40		38	0	4	05		
	8232	0	3	24		84	0	8	09		
	8237	0	1	21		89	0	4	45		
	8238	0	4	45		88	0	4	65		
	8230	0	10	52		97	0	0	40		
	8229	0	2	43		98	0	6	48		
	8269	0	6	48		103	0	8	50		
	8270	0	10	52		102	0	3	24		
	8271	0	0	40		2416	0	1	01		
	8278	0	0	40		2415	0	6	07		
	8333	0	3	24		108	0	2	43		
	8273	0	7	28		109	0	3	64		
	5420	0	2	43		107	0	0	61		
	5421	0	7	69		114	0	0	40		
	5419	0	4	05		115	0	0	20		
	5423	0	1	21		113	0	9	11		
	5424	0	14	57		120	0	3	64		
	5431	0	1	21		119	0	1	21		
	5425	0	4	86		117	0	8	90		
	5428	0	12	95		121	0	1	62		
	5427	0	5	67		129	0	7	49		
	5443	0	5	67		2417	0	5	06		
	5444	0	8	90		140	0	8	90		
	5445	0	2	83	कमरापा.ग	131	32	0	3	24	
	8340	0	0	40		64	0	2	23		
	294	0	16	19		65	0	2	83		
	8372	0	15	38		67	0	2	43		
	277	0	4	45		68	0	5	26		
	278	0	5	26		70	0	7	69		
	279	0	8	09		71	0	7	28		
	280	0	6	07		81	0	7	69		

1	2	3	4	5	6	1	2	3	4	5	6	
कर्मसङ्कालीन (जारी)		82	0	4	05		713	0	6	07		
		90	0	12	55		712	0	5	26		
		89	0	0	61		711	0	10	12		
		87	0	4	86		716	0	13	36		
		107	0	0	81		734	0	8	09		
		108	0	10	72		733	0	6	48		
		109	0	4	05		732	0	5	26		
		80	0	1	62		756	0	9	71		
		86	0	0	20		1014	0	4	45		
यमनगढ़	130	904	0	5	67		1015	0	7	69		
		917	0	0	20		1016	0	14	16		
		916	0	6	48		1017	0	2	23		
		945	0	3	64		1018	0	2	23		
		944	0	10	52		1019	0	4	45		
		940	0	6	07		1021	0	5	06		
		943	0	2	02		1022	0	18	82		
		942	0	1	21		1010	0	6	88		
		941	0	5	67		1039	0	4	13		
		939	0	5	67		1038	0	2	83		
		984	0	0	81		1037	0	6	88		
		937	0	1	62		1033	0	12	11		
		936	0	14	16		752	0	21	01		
		934	0	6	68	गोन्डाइकुरी	110	2066	0	6	48	
		935	0	1	21		2067	0	6	07		
		1003	0	2	2		2073	0	7	28		
		1005	0	2	43		2075	0	4	45		
		1013	0	3	64		2076	0	1	42		
		1014	0	0	81		1015	0	3	64		
		1016	0	2	43	माटीकोता	115	10	0	4	45	
		1017	0	0	40		11	0	7	28		
		1012	0	3	24		9	0	9	31		
		1011	0	2	43		5	0	5	67		
		1018	0	4	45		7	0	14	57		
		1004	0	1	62		6	0	6	48		
पुरखानारायणपुर	114	1079	0	10	12		120	0	0	40		
		475	0	3	24		119	0	0	40		
		474	0	7	69		140	0	19	43		
		473	0	5	26		143	0	8	90		
		476	0	3	24		170	0	2	02		
		472	0	1	62		144	0	3	24		
		477	0	8	09		163	0	3	24		
		478	0	3	44		164	0	3	24		
		479	0	1	21		169	0	2	43		
		491	0	6	07		165	0	0	81		
		480	0	3	24		168	0	2	43		
		493	0	2	02		189	0	3	64		
		494	0	30	76		159	0	1	21		
		673	0	1	21		190	0	0	40		
		666	0	0	20		188	0	14	97		
		667	0	6	18		191	0	0	20		
		668	0	6	18		195	0	0	20		
		662	0	0	20		196	0	0	20		
		669	0	6	07		186	0	2	43		
		661	0	1	01		187	0	16	19		

1	2	3	4	5	6	1	2	3	4	5	6
मार्टकोता—(जारी)											
	979	0	1	21		1430	0	3	64		
	980	0	0	81		1426	0	0	20		
	978	0	6	07		1425	0	2	02		
	990	0	2	43		1451	0	2	43		
	989	0	0	20		1452	0	7	28		
	992	0	0	20		1453	0	4	86		
	991	0	2	43		1491	0	4	86		
	994	0	1	82		1488	0	2	43		
	995	0	5	26		1489	0	1	21		
	996	0	0	24		1490	0	4	05		
	997	0	8	90		1991	0	0	81		
	999	0	1	62		1475	0	4	45		
	1001	0	6	48		1473	0	0	20		
	1003	0	8	90		1472	0	0	81		
	1039	0	5	26		1471	0	2	02		
	1040	0	7	28		1476	0	9	31		
	1042	0	1	62		209	0	7	69		
	1043	0	3	24		3208	0	1	21		
	1044	0	0	16		2337	0	0	81		
	1045	0	0	16		2434	0	3	24		
	1046	0	5	26		2435	0	3	21		
	1148	0	0	40		2432	0	6	88		
	1149	0	0	81		2431	0	2	43		
	1151	0	10	52		2430	0	1	21		
पञ्चन्तुले	108	230	0	5	26	2436	0	0	40		
		241	0	6	88	2129	0	5	26		
		244	0	6	83	2428	0	4	05		
		246	0	1	21	2135	0	19	02		
		245	0	8	90	2138	0	0	81		
		247	0	8	09	2139	0	0	40		
		248	0	0	20	2140	0	0	40		
		252	0	0	20	2142	0	8	90		
		251	0	8	09	2150	0	8	50		
		363	0	3	64	2148	0	0	20		
		369	0	7	28	2147	0	5	26		
		370	0	5	67	2146	0	4	45		
		359	0	2	81	2145	0	1	42		
		496	0	3	24	2300	0	4	86		
		495	0	8	09	2156	0	0	40		
		497	0	3	24	2298	0	1	62		
		381	0	0	40	2299	0	1	62		
		382	0	8	90	2323	0	0	40		
		388	0	0	40	2317	0	7	28		
		389	0	0	40	2316	0	0	20		
		387	0	2	83	2318	0	4	05		
		384	0	1	62	2320	0	8	09		
		386	0	1	62	2322	0	5	87		
		361	0	4	45	2356	0	1	86		
कायरा	107	1436	0	3	64	2366	0	4	45		
		1435	0	0	20	2367	0	8	50		
		1433	0	4	86	2370	0	4	45		
		1432	0	5	26	2371	0	8	50		
		1428	0	1	62	2354	0	2	43		
		1129	0	4	86	2353	0	2	43		
		1431	0	0	40	1487	0	1	21		

1	2	3	4	5	6	1	2	3	4	5	6
काषेटा—(जारी)		2125	0	0	81		2081	0	2	43	
		2426	0	2	02		2085	0	2	02	
		2425	0	1	21		2080	0	1	21	
पछियांग	106	1657	0	3	24		2080	0	8	09	
		2241	0	1	21		2041	0	0	20	
		1655	0	0	20	पेक्षा से	108	1724	0	4	43
		1656	0	10	12		1728	0	1	62	
		1687	0	3	64		1725	0	4	86	
		1681	0	0	81		1741	0	5	67	
		1680	0	12	14		1734	0	6	20	
		1845	0	14	16		1733	0	0	40	
		1844	0	2	43		1737	0	0	20	
		1846	0	8	83		1738	0	6	85	
		1847	0	2	43		1739	0	6	48	
		1848	0	1	62		1740	0	7	28	
		1850	0	4	05		960	0	3	64	
		1851	0	6	48		959	0	7	28	
		2624	0	7	28		958	0	8	80	
		1597	0	13	70		957	0	1	63	
		1598	0	14	16		956	0	3	24	
		1865	0	0	20		953	0	4	05	
		1868	0	5	26		952	0	0	20	
		1871	0	14	16		951	0	4	05	
		1855	0	8	09		950	0	2	43	
		1595	0	0	20		949	0	3	24	
		1863	0	3	24		983	0	0	40	
		1866	0	8	90		984	0	0	20	
		1867	0	4	05		947	0	3	24	
		1967	0	15	38		946	0	2	02	
		1970	0	0	20		944	0	2	43	
		1974	0	8	67		943	0	0	81	
		1975	0	10	12		941	0	1	21	
		1963	0	4	03		940	0	3	64	
		1499	0	0	40		993	0	0	20	
		1964	0	3	24		939	0	8	09	
		1962	0	4	86		999	0	2	43	
		1979	0	6	88		998	0	3	24	
		1977	0	4	86		1002	0	3	64	
		1986	0	6	07		1003	0	8	09	
		1987	0	0	40		996	0	1	01	
		1985	0	4	45		1829	0	1	62	
		2001	0	4	45		1111	0	3	64	
		2003	0	3	64		1110	0	4	45	
		2006	0	4	86		1109	0	0	20	
		2005	0	0	20		1108	0	3	64	
		2007	0	4	86		1107	0	3	24	
		2020	0	8	09		1106	0	0	40	
		2019	0	0	81		1105	0	1	62	
		2024	0	4	45		1299	0	0	20	
		2023	0	3	24		1300	0	2	83	
		2050	0	2	63		1283	0	3	64	
		2063	0	3	24		1838	0	2	02	
		2062	0	0	81		1281	0	1	21	
		2053	0	6	48		1282	0	4	05	
		2054	0	0	40		1279	0	2	43	

1	2	3	4	5	6	1	2	3	4	5	6
		1278	0	1	62		3836	0	0	60	
		1277	0	3	24		4074	0	5	26	
		1284	0	2	83		3838	0	0	81	
		1269	0	5	67		3839	0	3	24	
		1271	0	15	38		3835	0	2	43	
		1272	0	0	81		4043	0	0	20	
		1274	0	2	02		4073	0	2	43	
		1275	0	0	40		3840	0	12	14	
		1276	0	17	0		3841	0	0	20	
		1704	0	0	81		3860	0	2	02	
		1291	0	2	02		3859	0	3	24	
		1292	0	2	83		3861	0	3	24	
		1293	0	2	43		3862	0	2	02	
		1294	0	1	62		3864	0	9	71	
		1295	0	2	02		3866	0	1	01	
		1296	0	2	43		3867	0	1	03	
		1297	0	0	40		3868	0	5	24	
		1298	0	2	83		3902	0	9	31	
नपत्रिग्राम	43	1406	0	5	67		3901	0	3	24	
		1405	0	2	83		3900	0	3	64	
		854	0	8	99		3892	0	4	45	
		1349	0	0	40		3891	0	1	62	
		855	0	8	09		3890	0	2	83	
		1336	0	5	26		3885	0	0	20	
		1330	0	2	83		3884	0	2	02	
		1331	0	3	84		3883	0	2	02	
		1332	0	3	03		3882	0	12	14	
		1333	0	0	20		3916	0	22	26	
		1321	0	4	05		3948	0	0	40	
		1322	0	2	22		3949	0	10	93	
		1323	0	3	24		3950	0	6	88	
		1319	0	5	26		3951	0	2	43	
		1320	0	6	67		3966	0	4	86	
		1314	0	4	86		3965	0	0	40	
		1315	0	4	05		3969	0	3	64	
		1311	0	8	90		3992	0	2	02	
		1279	0	3	64		3963	0	2	83	
		1280	0	4	05		3894	0	38	05	
		1278	0	14	97		3915	0	2	83	
		1276	0	5	87	रक्षेता	45	625	0	0	81
		1277	0	4	86		631	0	4	45	
		1275	0	8	90		630	0	4	45	
		1274	0	6	48		626	0	0	40	
		1254	0	0	20		988	0	2	83	
गोपीनाथपुर	44	3688	0	2	83		629	0	3	24	
		3689	0	2	83		580	0	0	81	
		3684	0	4	05		579	0	10	93	
		3683	0	4	45		956	0	2	02	
		3682	0	8	90		957	0	5	67	
		3685	0	0	40		571	0	1	62	
		3664	0	0	40		577	0	4	05	
		3665	0	8	90		572	0	1	41	
		3679	0	10	12		954	0	2	83	
		3680	0	0	40		573	0	6	07	
		3592	0	0	81		574	0	0	40	

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
रक्षोना	45	561	0	3	64				1639	0	3	54			
		560	0	1	01				1640	0	1	62			
		544	0	9	71				1584	0	2	83			
		559	0	0	20				1890	0	8	50			
		545	0	6	48				1889	0	0	81			
		549	0	0	40				1933	0	9	31			
		546	0	0	20				1935	0	5	67			
		547	0	3	24				1930	0	1	21			
		548	0	1	01	प्रान्त	47	6		0	2	43			
		918	0	3	64				11	0	5	67			
		683	0	4	45				12	0	6	38			
		689	0	6	07				17	0	7	28			
		690	0	6	48				29	0	3	21			
		691	0	3	24				28	0	0	20			
		868	0	4	86				30	0	1	62			
		867	0	4	45				31	0	0	60			
		866	0	4	45				32	0	6	48			
		953	0	1	62				121	0	0	20			
		883	0	5	62				127	0	3	64			
		884	0	5	67				122	0	7	89			
		885	0	7	28				123	0	5	67			
प्रसंगुर	46	1936	0	0	81				119	0	3	64			
		1929	0	2	02				116	0	6	88			
		1948	0	7	28				118	0	11	74			
		1927	0	0	40				115	0	0	20			
		1926	0	4	86				111	0	16	19			
		1627	0	1	21				167	0	4	45			
		1628	0	2	83				168	0	0	20			
		1629	0	6	07				170	0	0	20			
		1630	0	3	24				169	0	2	22			
		1528	0	0	40				166	0	1	21			
		1636	0	11	75				277	0	6	07			
		1637	0	3	64				275	0	1	62			
		1633	0	5	26				181	0	1	21			
		1641	0	0	40				182	0	1	21			
		1679	0	4	45				274	0	4	45			
		1681	0	1	21				271	0	2	83			
		1680	0	1	21				272	0	3	24			
		1686	0	5	26				270	0	3	64			
		1687	0	4	86				266	0	0	40			
		1688	0	7	28				267	0	6	48			
		1693	0	1	21				264	0	2	83			
		1692	0	2	83				263	0	2	83			
		1694	0	1	21				260	0	5	26			
		1695	0	1	62				230	0	0	81			
		1696	0	4	05				232	0	4	86			
		1697	0	0	20				259	0	0	81			
		1790	0	0	40				228	0	0	20			
		1792	0	2	2				229	0	3	64			
		1791	0	4	45				226	0	5	67			
		1793	0	0	40				232	0	1	21			
		1798	0	5	67				537	0	1	21			
		1797	0	2	83				535	0	0	81			
		2535	0	0	20				536	0	2	02			
		1584	0	2	43				534	0	4	45			

1	2	3	4	5	6	1	2	3	4	5	6
		538	0	1	01		615	0	1	94	
		532	0	1	62		617	0	2	92	
		528	0	1	62		618	0	3	48	
		533	0	0	60		566	0	0	20	
		1109	0	0	20		639	0	7	28	
		530	0	2	02		610	0	9	31	
		560	0	8	90		638	0	9	71	
		562	0	26	71		614	0	4	05	
		563	0	4	45		643	0	4	05	
		564	0	2	83		645	0	0	20	
		565	0	4	27		642	0	4	05	
		566	0	3	64		650	0	5	26	
		567	0	6	48		651	0	0	81	
		574	0	1	62		649	0	0	81	
		575	0	4	05		657	0	4	05	
		573	0	1	01		1386	0	0	40	
		572	0	0	10		1234	0	4	86	
		526	0	1	20		1265	0	0	20	
		262	0	4	05		1228	0	5	67	
		231	0	0	81		1266	0	5	26	
		421	0	0	60		1294	0	6	88	
							1295	0	12	14	
सालका	48	1198	0	3	4		1297	0	4	86	
		1199	0	0	04		1300	0	5	67	
		1188	0	8	65		1391	0	0	81	
		1189	0	4	71		1301	0	9	71	
		1187	0	11	16		660	0	0	40	
		1186	0	2	90		661	0	6	07	
		1180	0	6	70		662	0	3	24	
		1181	0	8	91		670	0	0	20	
		1182	0	1	7		675	0	3	64	
		670	0	2	57		674	0	4	86	
		669	0	5	47		672	0	2	02	
		668	0	0	80		1174	0	4	45	
		672	0	24	29		1176	0	3	24	
		663	0	3	41		671	0	6	88	
		666	0	6	17		1175	0	1	21	
		665	0	0	04		1173	0	4	05	
		664	0	5	94		673	0	0	40	
		667	0	6	63		1295	0	12	14	
		648	0	7	94		1177	0	0	81	
		649	0	0	05		1172	0	5	26	
		642	0	5	7		1171	0	5	26	
		643	0	4	52		676	0	4	05	
		645	0	7	90		1169	0	6	07	
		635	0	3	68		1168	0	4	45	
		638	0	19	70		1167	0	4	05	
		640	0	3	01		1166	0	8	90	
		639	0	7	55		1196	0	0	20	
		567	0	13	99		1194	0	0	40	
		568	0	0	20		1205	0	0	81	
		1402	0	0	74		1206	0	4	45	
		626	0	1	52		1243	0	3	64	
		613	0	3	05		1301	0	9	71	
		614	0	4	87		1204	0	0	20	

[भाग II—सूचि 3 (ii)]

भारत का राजपत्र : जूनार्ड 27, 1996/शावण 5, 1918

1	2	3	4	5	6	1	2	3	4	5	6
								111	0	12	14
			1300	5	67			110	0	5	67
			1239	0	6	48	Chandanpur	110	269	0	8
			1215	0	3	64			271	0	4
			1294	0	6	88			280	0	5
			1237	0	2	43			281	0	4
			1297	0	4	86			288	0	8
			1236	0	2	43			286	0	5
			1234	0	4	86			254	0	1
			1387	0	3	61			289	0	1
			1386	0	0	40			290	0	10
			1235	0	0	81			300	0	12
			1266	0	5	26			299	0	4
			1385	0	5	67			296	0	2
			1228	0	5	67			297	0	4
			1389	0	0	20			294	0	45
									295	0	6
									315	0	07
									314	0	9
									313	0	71
									313	0	26
									313	0	40
									335	0	81
									334	0	5
									336	0	67
									540	0	07
									539	0	40
									538	0	81
									885	0	21
									884	0	81
									883	0	45
									541	0	05
									542	0	24
									543	0	62
									556	0	40
									535	0	40
									534	0	05
									532	0	83
									531	0	26
									530	0	81
									511	0	43
									570	0	43
									645	0	09
									646	0	40
									649	0	12
									651	0	09
									652	0	24
									661	0	21
									660	0	87
									762	0	81
									761	0	43
									760	0	21
									759	0	69
									771	0	12
									773	0	21
									772	0	26
									770	0	43
									414	0	12
									787	0	86
									788	0	26
									791	0	21
									790	0	67
									789	0	43
Udaypur	11	139	0	22	56				854	0	21
		105	0	9	31				899	0	21
		140	0	0	40				3128	0	81
		107	0	4	45				3113	0	69
		114	0	0	40					7	69
		112	0	0	40						

MINISTRY OF PETROLEUM AND NATURAL GAS
New Delhi, the 18th July, 1996

S.O. 2215.—Whereas, it appears to the Central Government that it is necessary in the Public interest that for the transport of petroleum (crude) from Haldia in the State of West Bengal to Barauni in the State of Bihar, pipeline should be laid by the Indian Oil Corporation Limited.

And whereas it appears that for the purpose of laying such pipelines it is necessary to acquire the right of user in the land described in the Schedule annexed to this notification.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Mineral pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may within 21 days from the date on which the copies of this notification, as published in the Gazette of India, are made available to general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri Biswanath Bose, Competent Authority, Indian Oil Corporation Limited, Haldia-Barauni Pipeline Project, P.O. Haldia Refinery Dist. Midnapur, West Bengal.

Police Station : Bolepur District : Birbhum State : West Bengal

Village	Area					
	JL No. Plot No.		Hectares	Ares	Cen-	taires
1	2	3	4	5	6	
Udaypur	11	139	0	22	56	
		105	0	9	31	
		140	0	0	40	
		107	0	4	45	
		114	0	0	40	
		112	0	0	40	

1	2	3	4	5	6	1	2	3	4	5
3112	0	2	02			874		0	6	48
3114	0	1	21			900		0	0	40
3110	0	2	43			1212		0	2	02
3109	0	4	45			3111		0	3	64
3015	0	2	02	Rasulpur	114	62		0	11	33
3014	0	3	64			60		0	25	09
3016	0	1	21	Shibpur	102	61		0	0	40
3017	0	3	64			59		0	17	40
3018	0	9	71			295		0	10	52
3019	0	0	20			294		0	13	36
3020	0	5	26			293		0	0	40
3021	0	3	64			585		0	0	40
3024	0	5	67			584		0	1	62
3090	0	0	40			600		0	1	21
3048	0	4	86			602		0	4	86
3049	0	1	62			542		0	0	40
3050	0	3	24			288		0	4	45
3052	0	0	40			541		0	0	40
3061	0	5	67	Uttar Radha-	103	569		0	19	02
3064	0	0	40	Nagar		49		0	2	43
3060	0	4	05			191		0	10	12
3056	0	1	21			190		0	10	52
3057	0	0	40			192		0	1	21
3058	0	0	81			221		0	1	21
2632	0	1	62			164		0	14	16
2338	0	2	02			160		0	0	40
2337	0	2	02			161		0	1	62
2339	0	0	40			162		0	1	21
2329	0	4	05			197		0	12	55
2328	0	2	83			198		0	6	48
2228	0	3	24			208		0	2	83
3054	0	1	21			204		0	1	21
2229	0	1	21			205		0	11	74
2235	0	6	88			207		0	12	95
2233	0	4	45			206		0	2	83
2234	0	2	83			213		0	2	83
2218	0	6	07			214		0	3	24
2217	0	4	05			217		0	2	43
2214	0	0	81			220		0	2	83
2213	0	0	40			219		0	7	28
2215	0	2	02	Raipur	109	216		0	2	02
2212	0	3	24	Mehidipur	105	10		0	17	81
2208	0	2	83			1701		0	4	45
2205	0	4	40			1704		0	2	83
2204	0	0	40			1721		0	7	69
2203	0	4	86			1720		0	4	86
2202	0	2	43			1719		0	2	02
2201	0	2	02			1725		0	4	05
1232	0	0	81			1724		0	7	69
1215	0	3	64			1728		0	1	62
1217	0	0	40			1730		0	10	12
1218	0	0	40			1729		0	12	55
1219	0	0	40			1745		0	5	26
1220	0	0	40			2431		0	10	93
1207	0	0	81			2034		0	2	43
1208	0	2	43			2036		0	6	48
1210	0	2	43			2042		0	14	57
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1111	0	19	43			2137		0	6	88
880	0	0	40			2138		0	4	45
875	0	2	02			2140		0	4	86
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Pasch.	53		1574	0	11	33		2987		0	1	61	
Baha-			1575	0	4	86		2986		0	0	40	
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	7802		0	0	81		279		0	8	09
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Kamarpara	131		32	0	3	24		716	0	13	36	
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Ramnagar	130		904	0	5	67		1033	0	12	14	
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			1018	0	4	45		168	0	2	43	
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Purbanarayan-	114		1079	0	10	12		159	0	1	21	
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			477	0	8	09		186	0	2	43	
			478	0	3	44		187	0	16	19	
			479	0	1	21		979	0	1	21	
			491	0	6	07		980	0	0	81	
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			493	0	2	02		990	0	2	43	
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		996	0	0	24			2432	0	6	88		
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Panchtentule	108	230	0	5	26			2145	1	1	42		
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Paikuni	105	1724	0	4	45	Nripatigram 43	1406		0	5	67
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		3835	0	2	43		868	0	4	86	
		4043	0	0	20		867	0	4	45	
		4073	0	2	43		866	0	4	45	
		3840	0	12	14		953	0	1	62	
		3841	0	0	20		883	0	5	62	
		3860	0	2	02		884	0	5	67	
		3859	0	3	24		885	0	7	28	
		3861	0	3	24						
		3862	0	2	02	Dharampur	46	1936	0	0	81
		3863	0	9	71		1929	0	2	02	
		3866	0	1	01		1928	0	7	28	
		3867	0	4	05		1927	0	0	40	
		3868	0	5	26		1926	0	4	86	
		3902	0	9	31		1627	0	1	21	
		3901	0	3	24		1628	0	2	83	
		3900	0	3	64		1629	0	6	07	
		3892	0	4	45		1630	0	3	24	
		3891	0	1	62		2528	0	0	40	
		3890	0	2	83		1636	0	11	75	
		3885	0	0	20		1637	0	3	64	
		3884	0	2	02		1633	0	5	26	
		3883	0	2	02		1641	0	0	40	
		3882	0	12	14		1679	0	4	45	
		3916	0	22	26		1681	0	1	21	
		3948	0	0	40		1680	0	1	21	
		3949	0	10	93		1686	0	5	26	
		3950	0	6	88		1687	0	4	86	
		3951	0	2	43		1688	0	7	28	
		3966	0	4	86		1693	0	1	21	
		3965	0	0	40		1692	0	2	83	
		3969	0	3	64		1694	0	1	21	
		3962	0	2	02		1695	0	1	62	
		3963	0	2	83		1696	0	4	05	
		3894	0	38	05		1697	0	0	20	
		3915	0	2	83		1790	0	0	40	
							1792	0	2	02	
Rakona	45	625	0	0	81		1791	0	4	45	
		631	0	4	45		1793	0	0	40	
		630	0	4	45		1798	0	5	67	
		626	0	0	40		1797	0	2	83	
		988	0	2	83		2535	0	0	20	
		629	0	3	24		1584	0	2	43	
		580	0	0	81		1639	0	3	24	
		579	0	10	93		1640	0	1	62	
		956	0	2	02		1584	0	2	83	
		957	0	5	67		1890	0	8	50	
		571	0	1	62		1889	0	0	81	
		577	0	4	05		1933	0	9	31	
		572	0	1	41		1935	0	5	67	
		954	0	2	83		1930	0	1	21	
		573	0	6	07						
		574	0	0	40						
		561	0	3	64	Shunut	47	6	0	2	43
		560	0	1	01		11	0	5	67	
		544	0	9	71		12	0	6	88	
		559	0	0	20		17	0	7	28	
		545	0	6	48		29	0	3	24	

1	2	4	5	6	1	2	4	5	6
SHUNUT--(contd.)	28	0	0	20		1189	0	4	71
	30	0	1	62		1187	0	11	16
	31	0	0	60		1186	0	2	90
	32	0	6	48		1180	0	6	70
	121	0	0	20		1181	0	8	91
	127	0	3	64		1182	0	1	76
	122	0	7	89		670	0	2	57
	123	0	5	67		669	0	5	47
	119	0	3	64		668	0	0	80
	116	0	6	88		672	0	24	29
	118	0	11	74		663	0	3	41
	115	0	0	20		666	0	6	17
	111	0	16	19		665	0	0	04
	167	0	4	45		664	0	5	94
	166	0	●	20		667	0	6	63
	170	0	0	20		648	0	7	94
	169	0	2	22		649	0	0	05
	168	0	1	21		642	0	5	73
	277	0	6	07		643	0	4	52
	275	0	1	62		645	0	7	90
	181	0	1	21		635	0	3	68
	182	0	1	21		638	0	19	70
	274	0	4	45		640	0	3	01
	271	0	2	83		639	0	7	55
	272	0	3	24		567	0	13	99
	270	0	3	64		568	0	0	20
	266	0	0	40		1402	0	0	74
	267	0	6	48		626	0	1	52
	264	0	2	83		613	0	3	05
	263	0	2	83		614	0	4	87
	260	0	5	26		615	0	1	94
	230	0	0	81		617	0	2	92
	222	0	4	86		618	0	3	48
	259	0	0	81		566	0	0	20
	228	0	0	20		639	0	7	28
	229	0	3	64		640	0	9	31
	226	0	5	67		638	0	9	71
	232	0	1	21		644	0	4	05
	537	0	1	21		643	0	4	05
	535	0	0	81		645	0	0	20
	536	0	2	02		642	0	4	05
	534	0	4	45		650	0	5	26
	538	0	1	01		651	0	0	81
	532	0	1	26		649	0	0	81
	528	0	1	62		657	0	4	65
	533	0	0	60		659	0	4	45
	1109	0	0	20		1386	0	0	40
	530	0	2	02		1234	0	4	86
	560	0	8	90		1265	0	0	20
	562	0	26	71		1228	0	5	67
	563	0	4	45		1266	0	5	26
	364	0	2	83		1294	0	6	88
	565	0	4	27		1295	0	12	14
	566	0	3	74		1297	0	4	86
	567	0	6	48		1300	0	5	67
	574	0	1	62		1391	0	0	81
	575	0	4	05		1301	0	9	71
	573	0	1	01		660	0	0	40
	572	0	0	40		661	0	6	07
	526	0	1	20		662	0	3	24
	262	0	4	05		670	0	0	20
	231	0	0	81		675	0	3	64
	421	0	0	60		674	0	4	86
						672	0	2	02
Salka	48	1198	0	3	48	1174	0	4	45
		1199	0	0	04	1176	0	3	24
		1188	0	8	65	671	0	6	88

1	2	3	4	5	6	प्रदेशोंता, इक घर हस्तिया रिफाइनरी, गिला मिसनपुर, पश्चिमी बंगाल को कर सकता।	
1175	0	1	21				
1173	0	4	05				
673	0	0	40				
1295	0	12	14				
1177	0	0	81				
1172	0	5	26				
1171	0	5	26				
676	0	4	05				
1169	0	6	07				
1168	0	4	45				
1167	0	4	05				
1166	0	8	90				
1196	0	0	20				
1194	0	0	40				
1205	0	0	81				
1206	0	4	45				
1243	0	3	64				
1301	0	9	71				
1204	0	0	20				
1300	0	5	67				
1239	0	6	48				
1215	0	3	64				
1294	0	6	88				
1237	0	2	43				
1297	0	4	86				
1236	0	2	43				
1234	0	4	86				
1387	0	3	64				
1386	0	0	40				
1235	0	0	81				
1266	0	5	26				
1385	0	5	67				
1228	0	5	67				
1389	0	0	20				

[No. R-31015/4/96-OR-I]

K. C. KATOCH, Under Secy.

नई दिल्ली, 18 जुलाई, 1996

का.आ. 2216 :—केन्द्रीय सरकार को यह प्रतित होता है कि एक हिस्से में ऐसा करना अवश्यक है कि पश्चिमी बंगाल राज्य के हस्तिया से बिहार राज्य के बरीनी लक्ष पेट्रोलियम (जूड़) के परिवहन के लिए इंडियन ऑफिल कारपोरेशन द्वारा पाइपलाइन बिछाई जाए।

और उक्त पाइपलाइन बिछाने के प्रयोजन के लिए अधिसूचना में संलग्न अनुमति में वर्णित भूमि में उपयोग के अधिकार का अर्जन करना अवश्यक है।

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (दूसरे में उपयोग के अधिकार का अर्जन) अधिरियम, 1962 (1962 का 50) की धारा 3 की तर्फ धारा (1) द्वारा प्रदत्त जानकारों का प्रयोग करते हुए उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है।

उक्त अनुमति में वर्णित भूमि में हितवड़ कोई व्यक्ति उस तारीख से जिसकी राज्यपत्र में यथा प्रकाशित है अधिसूचना की प्रतिवार्ता साधारण वर्षता को उत्तर ध्वनि करा दी जाती है 21 दिन के भीतर भूमि के निम्न पाइपलाइन नियाने के संबंध में उनमें उपयोग के अधिकार का अर्जन करते हुए विविध रूप में आधीप श्री विष्वनाथ योस, सकाम प्राधिकारी, इंडियन ऑफिल कारपोरेशन लिमिटेड हस्तिया बरीनी जूड़ पाइपलाइन

1	2	3	4	5	6
अनुमति	154	1	0	7	69
		94	0	8	50
		95	0	8	90
		96	0	0	40
		713	0	8	90
		103	0	8	90
		104	0	15	38
		105	0	2	02
		149	0	6	48
		150	0	1	62
		180	0	2	83
		181	0	6	48
		185	0	6	07
		186	0	2	83
		193	0	8	90
		195	0	3	64
		196	0	0	20
		701	0	0	20
		722	0	3	64
		721	0	1	62
		723	0	2	83
		720	0	3	64
		206	0	2	83
		234	0	10	93
		736	0	16	59
		233	0	0	73
		227	0	2	83
		415	0	6	7
		416	0	2	2
		413	0	7	41
		410	0	5	67
		411	0	0	93
		409	0	7	30
		407	0	2	02
		405	0	4	45
		750	0	5	26
		3500	0	8	90
		3501	0	1	62
		393	0	12	55
		394	0	2	02
		622	0	12	14
		621	0	1	62
		628	0	16	19
		627	0	0	57
		2730	0	4	86

1	2	3	4	5	6	1	2	3	4	5	6
2731	0	2	83			3388	0	4	27		
3555	0	2	02			3404	0	15	22		
3553	0	0	32			3361	0	0	20		
3554	0	5	67	बालुगढ़ाघ	118	3383	0	1	88		
2733	0	1	21			791	0	2	83		
2734	0	3	24			812	0	4	05		
2746	0	5	26			813	0	2	02		
2744	0	9	31			814	0	0	20		
2740	0	1	62			815	0	5	67		
3556	0	0	40			816	0	1	62		
3743	0	0	40			820	0	3	24		
2739	0	5	67			821	0	3	24		
2738	0	1	62			828	0	12	14		
2794	0	3	24			829	0	2	83		
2795	0	10	12			830	0	3	24		
2737	0	0	93			831	0	2	43		
2806	0	2	20			832	0	3	03		
2863	0	2	20			1535	0	5	67		
3560	0	6	48			1536	0	7	69		
2864	0	1	62			1537	0	3	44		
2857	0	6	48			1538	0	2	43		
2861	0	0	40			1539	0	0	20		
1836	0	5	26			1540	0	2	43		
1837	0	9	71			1542	0	2	02		
2838	0	0	81			1543	0	4	05		
2829	0	9	31			1551	0	8	90		
2830	0	0	40			1552	0	8	50		
2828	0	1	62			1576	0	20	24		
2827	0	9	31			1583	0	17	40		
2846	0	0	40			1610	0	2	43		
3066	0	2	43			1611	0	7	28		
3065	0	1	62			1613	0	3	24		
3064	0	2	83			1014	0	1	21		
3067	0	2	43			1615	0	22	26		
3063	0	4	5			1796	0	0	60		
3068	0	1	21			1797	0	2	83		
3069	0	1	21			1798	0	3	24		
3070	0	1	60			1799	0	7	28		
3071	0	4	45			1800	0	2	02		
192	0	4	05			1801	0	11	33		
3304	0	1	88			3305	0	2	83		
				सोमयग्नि	152	4	0	2	83		
						3	0	5	26		
3307	0	1	98			38	0	10	12		
3309	0	2	53			39	0	10	93		
3310	0	1	74			40	0	2	02		
3324	0	6	87			17	0	6	07		
3322	0	4	55			18	0	11	33		
3362	0	3	90			36	0	1	62		
3363	0	10	02			2672	0	10	93		
3326	0	2	18			2673	0	1	62		
3384	0	1	88			2693	0	0	20		
3382	0	1	16			2695	0	27	52		
3381	0	5	10			2696	0	8	50		
3385	0	3	71			2697	0	2	02		
3380	0	0	14			2698	0	4	05		

1	2	3	4	5	6	1	2	4	5	6	
		2699	0	2	43		1301	0	9	71	
		2700	0	4	86		1302	0	0	40	
		3068	0	3	24		1304	0	10	52	
		3066	0	7	69		1311	0	0	60	
		3067	0	16	59		1312	0	6	88	
		3090	0	4	05		1313	0	5	26	
		2735	0	4	86		1463	0	0	20	
		2736	0	5	67		1464	0	6	48	
		2737	0	5	67		1465	0	0	40	
		2738	0	1	21		1467	0	5	26	
		2727	0	0	20		1468	0	13	36	
		2774	0	0	81		1472	0	6	88	
		2777	0	6	48		1483	0	0	20	
		2778	0	2	83		1485	0	2	43	
		1779	0	1	01		1486	0	4	86	
		1798	0	4	21		1488	0	6	07	
		2807	0	16	59		1523	0	1	01	
		2808	0	1	62		1524	0	0	40	
		2810	0	4	86		1526	0	2	04	
		2811	0	1	62		1562	0	8	09	
		2805	0	1	96		1583	0	4	86	
		3075	0	19	52		1584	0	2	13	
		2838	0	12	95		1585	0	0	81	
		2839	0	3	64		1586	0	0	40	
		2840	0	2	63		1590	0	4	05	
		2842	0	4	05		1591	0	0	09	
		2843	0	1	62		1597	0	13	76	
		2844	0	0	40		1598	0	4	45	
		2847	0	3	03		1599	0	8	50	
		2848	0	4	45		1600	0	2	43	
		2849	0	0	20		1601	0	0	81	
		3014	0	3	64		1603	0	3	24	
		3015	0	0	20		1669	0	0	20	
		3016	0	3	03		1525	0	0	20	
		3017	0	13	76	मरिलकपुर	120	625	0	16	19
		3018	0	0	60		626	0	4	05	
		3019	0	8	09		627	0	2	02	
		3020	0	3	24		628	0	1	62	
		3574	0	2	83		629	0	2	43	
		3044	0	2	83		633	0	10	95	
		3575	0	17	81		634	0	0	40	
		3576	0	6	88		638	0	8	09	
		3673	0	13	36		639	0	3	64	
		3581	0	1	62		640	0	2	43	
		3021	0	1	62		642	0	2	93	
		3065	0	0	40		678	0	6	48	
सिद्धृत	119	1273	0	6	07		679	0	3	24	
		1276	भ	0	20		680	0	8	90	
		1277	0	5	67		681	0	0	20	
		1278	0	0	60		745	0	2	83	
		1279	0	1	21		706	0	6	88	
		1284	0	0	20		707	0	1	62	
		1385	0	6	48		710	0	12	55	
		1286	0	4	45	बेलुति	121	323	0	2	83
		1290	0	0	20		150	0	1	62	

1	2	3	4	5	6	1	2	3	4	5	6
वेस्ति	121	745	0	1	62			1561	0	3	64
	152	0	1	21				1564	0	8	09
	746	0	0	40				1565	0	4	86
	153	0	3	64				1573	0	3	24
	747	0	4	45				1574	0	6	48
	154	0	6	88				1575	0	3	24
	748	0	3	64				1581	0	5	26
	161	0	2	43				1582	0	0	81
	750	0	0	81				1623	0	5	26
	320	0	28	33				1627	0	3	24
	731	0	5	26				1628	0	5	26
	321	0	2	02				1629	0	8	09
	1481	0	0	20				1636	0	10	12
	322	0	12	95				1637	0	16	19
	1482	0	0	40				1638	0	0	40
	323	0	1	41				1646	0	3	24
	1483	0	0	40				1647	0	3	64
	324	0	1	01				1893	0	2	02
	1486	0	0	40				1901	0	1	21
	542	0	9	71				19	0	0	20
	1443	0	0	40				37	0	17	81
	795	0	8	09				38	0	13	36
	1444	0	4	05				39	0	8	90
	544	0	4	05				40	0	4	05
	1445	0	3	24				42	0	0	40
	545	0	1	41				49	0	2	43
	1446	0	0	40				50	0	2	82
	560	0	0	81				51	0	2	83
	1447	0	2	83				52	0	9	31
	561	0	10	12				85	0	3	64
	1448	0	13	76				86	0	0	81
	1449	0	5	67				87	0	7	28
	562	0	2	22				88	0	9	40
	1450	0	0	40				96	0	3	64
	563	0	2	02				120	0	5	67
	1468	0	0	40				121	0	5	67
	564	0	0	81				122	0	4	45
	1469	0	10	12				123	0	0	20
	567	0	2	43				133	0	0	20
	1470	0	4	86				134	0	6	88
	1471	0	0	60				125	0	1	82
	1472	0	0	81				136	0	4	45
	1476	0	0	20				137	0	2	43
	1477	0	6	88				139	0	6	88
	1478	0	3	24				140	0	7	28
	1508	0	6	88				142	0	1	21
	1513	0	4	05				146	0	3	24
	1514	0	9	31				148	0	0	40
	1515	0	7	28				149	0	0	20
	1556	0	0	20				48	0	1	21
	1557	0	0	40				806	0	9	31
	1558	0	3	64				798	0	3	24
	1559	0	4	45				804	0	2	83
	1560	0	3	24							

1	2	3	4	5	6	1	2	3	4	5	6
		807	0	0	40			1224	0	3	64
		813	0	0	60			1236	0	4	45
		814	0	4	45			1231	0	4	45
		815	0	0	40			1232	0	2	83
		840	0	3	64			1261	0	0	20
		841	0	3	64			1267	0	0	40
		842	0	1	21			1268	0	3	64
		844	0	0	81			1269	0	1	64
		846	0	3	24			1270	0	4	86
		847	0	2	83			1271	0	2	02
		848	0	0	81			1282	0	6	48
		852	0	0	40			1283	0	5	26
		855	0	0	20			1284	0	1	21
		856	0	4	05			1286	0	0	20
		857	0	3	24			1287	0	0	20
		858	0	3	24			2	0	0	40
		859	0	2	43			4	0	4	45
		860	0	1	62			5	0	19	83
		861	0	3	64			6	0	0	60
		442	0	1	62			7	0	10	12
		1437	0	27	93			33	0	1	82
		798	0	3	24			34	0	6	07
		803	0	1	62			45	0	6	88
		804	0	6	07			46	0	0	60
		1976	0	0	20			49	0	1	21
कृष्णपुर	114	309	0	6	67			50	0	2	02
		310	0	3	84			205	0	0	60
		317	0	0	20			216	0	0	20
		318	0	5	67			224	0	7	28
		319	0	6	07			225	0	4	45
		325	0	0	81			226	0	5	67
		326	0	5	67			231	0	0	81
		333	0	7	28			233	0	1	21
		334	0	2	02			234	0	2	43
		349	0	6	88			236	0	0	20
		351	0	1	82			242	0	2	22
		353	0	2	0			243	0	0	40
		354	0	28	33			249	0	7	28
		382	0	0	40			251	0	6	07
		383	0	8	09			253	0	2	43
		384	0	7	28			255	0	5	67
		335	0	0	20			257	0	2	43
सेमोरा	128	1262	0	7	69			258	0	0	40
		1260	0	0	40			264	0	0	20
		1264	0	0	40			266	0	5	67
		1259	0	2	02			267	0	3	24
		1258	0	0	40			268	0	0	40
		1257	0	0	20			808	0	1	21
		1221	0	3	64			818	0	0	40
		1220	0	2	43			819	0	5	67
		1222	0	3	24			821	0	0	81
		1237	0	3	64			822	0	3	24
		1233	0	1	62			823	0	6	07
		1226	0	0	81			1103	0	0	20
		1235	0	0	40			1107	0	0	81

1	2	3	4	5	6	1	2	3	4	5	6	
			1109	0	2	83		2113	,	0	0	81
			1110	0	0	40		2114		0	13	36
			1121	0	0	20		2115		0	4	05
			1126	0	4	05		2394		0	6	48
			1127	0	3	64		2518		0	4	05
			1129	0	0	40	अन्नदातीप	124	595	0	3	24
			1130	0	12	55		810		0	10	52
			1131	0	12	14		597		0	13	76
			1136		4	20		624		0	17	81
			1137	0	0	40		622		0	0	40
			1138	0	2	83		626		0	5	46
			44	0	0	2		630		0	0	81
			811	0	0	20		631		0	3	24
			810	0	0	20		632		0	10	93
			241	0	0	20		636		0	0	20
			240	0	0	20		637		0	15	38
			254	0	0	40		639		0	4	86
पश्चिमीकाद पोस्टम	129	2119	0	3	64		640		0	2	43	
		2120	0	8	90		641		0	6	07	
		2365	0	2	02		676		0	3	24	
		1843	0	1	41		677		0	15	38	
		1844	0	1	21		818		0	23	48	
		1850	0	0	20		684		0	0	81	
		1851	0	4	05		748		0	4	86	
		1852	0	2	43		750		0	2	43	
		1853	0	2	43	मूर्तिपत्रपुर	125	5	0	0	20	
		1863	0	0	20		6		0	8	90	
		1864	0	0	40		16		0	4	45	
		1865	0	0	20		17		0	7	69	
		1866	0	3	24		18		0	0	40	
		1867	0	3	24		19		0	5	67	
		1868	0	3	64		20		0	4	05	
		1880	0	0	20		38		0	1	21	
		1881	0	5	26		47		0	14	67	
		1882	0	14	57		48		0	13	76	
		1883	0	4	5		58		0	2	02	
		1884	0	0	20		63		0	2	43	
		1885	0	7	28		65		0	5	67	
		2001	0	4	45		66		0	0	81	
		2002	0	5	67		67		0	1	62	
		2009	0	1	21		68		0	4	05	
		2019	0	4	45		175		0	6	88	
		2018	0	8	90		178		0	0	81	
		2022	0	0	81		179		0	1	62	
		2023	0	4	5		197		0	4	86	
		2024	0	6	48		198		0	2	83	
		2025	0	1	62		199		0	2	43	
		2026	0	1	21		200		0	0	81	
		2029	0	0	20		203		0	4	05	
		2030	0	7	28		204		0	1	21	
		2031	0	4	45		205		0	0	20	
		2032	0	3	64		208		0	5	67	
		2107	0	7	28		441		0	2	02	
		2108	0	5	67		442		0	0	20	
		2109	0	1	62		443		0	0	81	

1	2	3	4	5	6
		444	0	2	83
		451	0	0	40
		452	0	3	21
		453	0	5	26
		456	0	0	20
		458	0	5	26
		459	0	1	21
		462	0	3	64
		463	0	5	67
		464	0	3	64
		466	0	4	05
		467	0	14	16
		468	0	7	28
		445	0	0	20
		465	0	0	20
		1297	0	0	20
फिरातका	127	257	0	3	64
		1	0	21	44
		254	0	2	43
		255	0	0	20
		256	0	0	20
		258	0	8	50
		252	0	2	43
		194	0	4	05
		96	0	0	20
		95	0	13	36
		92	0	0	20
		94	0	4	05
		104	0	7	28
		105	0	4	05
		107	0	9	71
		71	0	2	83
		72	0	4	86
		66	0	11	33
		65	0	5	26
		60	0	0	40
		64	0	7	28
		51	0	1	62
		64	0	5	26
		52	0	7	28
		56	0	3	24
		25	0	8	90
		1087	0	5	26
		11	0	4	05
		1058	0	0	40
		1061	0	1	21
		1068	0	14	57
		1067	0	1	61
		1062	0	0	40
		1065	0	1	62
		1068	0	0	80
		1064	0	5	26
		1070	0	1	21

1	2	3	4	5	6
		1066	0	6	48
		1069	0	9	31

[म. आर.-31015/4/96-ग्रा. आर.-4]
के.मी. अद्वेद, यारा गवर्नर

New Delhi, the 18th July, 1996

S.O. 2216.—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum (crude) from Haldia in the State of West Bengal to Barauni in the State of Bihar, pipeline should be laid by the Indian Oil Corporation Limited;

And whereas it appears that for the purpose of laying such pipelines it is necessary to acquire the right of user in the land described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (i) of section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962(50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may within 21 days from the date on which the copies of this notification, as published in the Gazette of India, are made available to general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri Biswanath Bose, Competent Authority, Indian Oil Corporation Limited, Haldia-Barauni Pipeline Project, P.O. Haldia Refinery, Distt. Midnapur West Bengal.

Police Station : Aushgram District : Burdwan State : West Bengal

Village	JL No.	Plot No.	Area		
			Hectares	Ares	Centiares
1	2	3	4	5	6
Alutia	154	1	0	7	69
		94	0	8	50
		95	0	8	90
		96	0	0	20
		713	0	8	90
		103	0	8	90
		104	0	15	38
		105	0	2	02
		149	0	6	48
		150	0	1	62
		180	0	2	83
		181	0	6	48
		185	0	6	07
		186	0	2	83
		193	0	8	90
		195	0	3	64
		196	0	0	20
		701	0	0	20
		722	0	3	64
		721	0	1	62
		723	0	2	83
		720	0	3	64
		206	0	2	83

1	2	3	4	5	6	1	2	3	4	5	6
Alutia	234	0	10	93		Alutia	3309	0	2	55	
	736	0	16	59			3310	0	1	74	
	233	0	0	73			3324	0	6	87	
	227	0	2	83			3322	0	4	55	
	415	0	6	07			3362	0	3	90	
	416	0	2	02			3363	0	10	02	
	413	0	7	41			3226	0	2	18	
	410	0	5	67			3384	0	1	88	
	411	0	0	93			3382	0	1	16	
	409	0	7	30			3381	0	5	10	
	407	0	2	02			3385	0	3	71	
	405	0	4	45			3380	0	0	14	
	750	0	5	26			3388	0	4	27	
	3500	0	8	90			3404	0	15	22	
	3501	0	1	62			3361	0	0	20	
	393	;	12	55		Baburbandh	118	791	0	2	83
	394	0	2	02			812	0	4	05	
	622	0	12	14			813	0	2	02	
	621	0	1	62			814	0	0	20	
	628	0	16	19			815	0	5	67	
	627	0	0	57			816	0	1	62	
	2730	0	4	86			820	0	3	24	
	2731	0	2	83			821	0	3	24	
	3555	0	2	02			828	0	12	14	
	3553	0	0	32			829	0	2	83	
	3554	0	5	67			830	0	3	24	
	2733	0	1	21			831	0	2	43	
	2734	0	3	24			832	0	3	03	
	2746	0	5	26			1535	0	5	67	
	2744	0	9	31			1536	0	7	69	
	2740	0	1	62			1537	0	3	44	
	3556	0	0	40			1538	0	2	43	
	2743	0	0	40			1539	0	0	20	
	2739	0	5	67			1540	0	2	43	
	2738	0	1	62			1542	0	2	02	
	2794	0	3	24			1543	0	4	05	
	2795	0	10	12			1551	0	8	90	
	2737	0	0	93			1552	0	8	50	
	2806	0	2	2			1576	0	20	24	
	2863	0	2	2			1533	0	17	40	
	3560	0	6	48			1610	0	2	43	
	2864	0	1	62			1611	0	7	28	
	2857	0	6	48			1613	0	3	24	
	2862	0	0	40			1614	0	1	21	
	2836	0	5	26			1615	0	22	26	
	2837	0	9	71			1796	0	0	60	
	2838	0	0	81			1797	0	2	83	
	2829	0	9	31			1798	0	3	24	
	2830	0	0	40			1799	0	7	28	
	2828	0	1	62			1800	0	2	02	
	2827	0	9	31			1801	0	11	33	
	2826	0	0	40		Somaipur	152	4	0	2	83
	3066	0	2	43			3	0	5	26	
	3065	0	1	62			38	0	10	12	
	3064	0	2	83			39	0	10	93	
	3067	0	2	43			40	0	2	02	
	3063	0	4	5			17	0	6	07	
	3068	0	1	21			18	0	11	33	
	3069	0	1	21			36	0	1	62	
	3070	0	1	60			2672	0	10	93	
	3071	0	4	45			2673	0	1	62	
	192	0	4	5			2693	0	0	20	
	3304	0	1	88			2695	0	27	52	
	3305	0	2	97			2696	0	8	50	
	3308	0	5	62			2697	0	2	02	
	3307	0	1	55							

1	2	3	4	5	6	1	2	3	4	5	6
		2698	0	4	05			1468	0	13	36
		2699	0	2	43			1472	0	6	88
		2700	0	4	86			1483	0	0	20
		3068	0	3	24			1485	0	2	43
		3066	0	7	69			1486	0	4	86
		3067	0	16	59			1488	0	6	07
		3090	0	4	05			1523	0	1	01
		2735	0	4	86			1524	0	0	40
		2736	0	5	67			1526	0	2	02
		2737	0	5	67			1562	0	8	09
		2738	0	1	21			1583	0	4	86
		2727	0	0	20			1584	0	2	43
		2774	0	0	81			1585	0	0	81
		2777	0	6	48			1586	0	0	40
		2778	0	2	83			1590	0	4	05
		2779	0	1	01			1591	0	8	09
		2798	0	1	21			1597	0	13	76
		2807	0	16	59			1598	0	4	45
		2808	0	1	62			1599	0	8	50
		2810	0	4	86			1600	0	2	43
		2811	0	1	62			1601	0	0	81
		2805	0	4	86			1603	0	3	24
		3075	0	10	52			1669	0	0	20
		2838	0	12	95			1525	0	0	20
		2839	0	3	64	Mallickpur	120	625	0	16	19
		2840	0	2	63			626	0	4	05
		2842	0	4	05			627	0	2	02
		2843	0	1	62			628	0	1	62
		2844	0	0	40			629	0	2	43
		2847	0	3	03			633	0	10	93
		2848	0	4	45			634	0	0	40
		2849	0	0	20			638	0	8	09
		3014	0	3	64			639	0	3	64
		3015	0	0	20			640	0	2	43
		3016	0	3	03			642	0	2	83
		3017	0	13	76			678	0	6	48
		3018	0	0	60			679	0	3	24
		3019	0	8	09			680	0	8	90
		3020	0	3	24			681	0	0	20
		3574	0	2	83	Beluti	121	705	0	2	83
		3044	0	2	83			706	0	6	88
		3575	0	17	81			707	0	1	62
		3576	0	6	88			710	0	12	55
		3573	0	13	36			323	0	2	83
		3581	0	1	62			152	0	1	21
		3021	0	1	62			746	0	0	40
		3065	0	0	40			153	0	3	64
Silut	119	1273	0	6	07			747	0	4	45
		1276	0	0	20			154	0	6	88
		1277	0	5	67			748	0	3	64
		1278	0	0	60			161	0	2	43
		1279	0	1	21			750	0	0	81
		1284	0	0	20			320	0	28	33
		1285	0	6	48			751	0	5	26
		1286	0	4	45			321	0	2	02
		1290	0	0	20			1481	0	0	20
		1301	0	9	71			322	0	12	95
		1302	0	0	40			1482	0	0	40
		1304	0	10	52			323	0	1	41
		1311	1	0	60			1483	0	0	40
		1312	0	6	88			324	0	1	01
		1313	0	5	26			1486	0	0	40
		1463	0	0	20			542	0	9	71
		1464	0	6	48						
		1465	0	0	40						
		1467	0	5	26						

1	2	3	4	5	6	1	2	3	4	5	6
1443		0	0	40			88		0	0	40
795		0	8	09			96		0	3	64
1444		0	4	05			120		0	5	67
544		0	4	05			121		0	5	67
1445		0	3	24			122		0	4	45
545		0	1	41			123		0	0	20
1446		0	0	40			133		0	0	20
560		0	0	81			134		0	6	88
1447		0	2	83			135		0	1	62
561		0	10	12			136		0	4	45
1448		0	12	76			137		0	2	43
1449		0	5	67			139		0	6	88
562		0	2	22			140		0	7	28
1450		0	0	40			142		0	1	21
563		0	2	02			146		0	3	24
1468		0	0	40			148		0	0	40
564		0	0	81			149		0	0	20
1469		0	10	12			48		0	1	21
567		0	2	43		Beranda	122	798	0	3	24
1470		0	4	86			804		0	2	83
1471		0	0	60			806		0	9	31
1472		0	0	81			807		0	0	40
1476		0	0	20			813		0	0	60
1477		0	6	88			814		0	4	45
1478		0	3	24			815		0	0	40
1508		0	6	88			840		0	3	64
1513		0	4	05			841		0	3	64
1514		0	9	31			842		0	1	21
1515		0	7	28			844		0	0	81
1556		0	0	20			846		0	3	24
1557		0	0	40			847		0	2	83
1558		0	3	64			848		0	0	81
1559		0	4	45			852		0	0	40
1560		0	3	24			855		0	0	20
1561		0	3	64			856		0	4	05
1564		0	8	09			857		0	3	24
1565		0	4	86			858		0	3	24
1573		0	3	24			859		0	2	43
1574		0	6	48			860		0	1	62
1575		0	3	24			861		0	3	64
1581		0	5	26			442		0	1	62
1582		0	0	81			1437		0	27	93
1623		0	5	26			798		0	3	24
1627		0	3	24			803		0	1	62
1628		0	5	26			804		0	6	07
1629		0	8	09			1576		0	0	20
1636		0	10	12		Srikrishnapur	114	309	0	6	07
1637	9	16	19				310		0	3	84
1638	0	0	40				317		0	0	20
1646	0	3	24				318		0	5	67
1647	0	3	64				319		0	6	07
1893	0	2	02				325		0	0	81
1901	0	1	21				326		0	5	67
19	0	0	20				333		0	7	28
37	0	17	81				334		0	2	02
38	0	13	36				349		0	6	88
39	0	8	90				351		0	1	82
40	0	4	05				353		0	2	02
42	0	0	40				354		0	28	33
49	0	2	43				382		0	0	40
50	0	2	83				383		0	8	09
51	0	2	83				384		0	7	28
52	0	9	31				335		0	0	20
85	0	3	64			Reora	128	1262	0	7	69
86	0	0	81				1260		0	0	40
87	0	7	28				1264		0	0	40

1	2	3	4	5	6	1	2	3	4	5	6
Reora—(contd.)	1259		0	2	02	Reora—(contd.)	1121		0	0	20
	1258		0	0	40		1126		0	4	05
	1257		0	0	20		1127		0	3	64
	1221		0	3	64		1129		0	0	40
	1220		0	2	43		1130		0	12	55
	1222		0	3	24		1131		0	12	14
	1237		0	3	64		1136		0	0	20
	1233		0	1	62		1137		0	4	45
	1226		0	0	81		1138		0	2	83
	1235		0	0	40		44		0	0	20
	1234		0	3	64		811		0	0	20
	1236		0	4	43		810		0	0	20
	1231		0	4	43		241		0	0	20
	1232		0	2	83		240		0	0	20
	1261		0	0	20		254		0	0	40
	1267		0	0	40						
	1268		0	3	64	Bakshibad Pogram	129	2119	0	3	64
	1269		0	1	62		2120		0	8	90
	1270		0	4	86		2365		0	2	02
	1271		0	2	02		1843		0	1	41
	1282		0	6	48		1844		0	1	21
	1283		0	5	26		1850		0	0	20
	1284		0	1	21		1851		0	4	05
	1286		0	0	20		1852		0	2	43
	1287		0	0	20		1853		0	2	43
	2		0	0	40		1863		0	0	20
	4		0	4	45		1864		0	0	40
	5		0	19	83		1865		0	0	20
	6		0	0	60		1866		0	3	24
	7		0	10	12		1867		0	3	24
	33		0	1	82		1868		0	3	64
	34		0	6	07		1880		0	0	20
	45		0	6	88		1881		0	5	26
	46		0	0	60		1882		0	14	57
	49		0	1	21		1883		0	4	05
	50		0	2	02		1884		0	0	20
	205		0	0	60		1885		0	7	28
	216		0	0	20		2001		0	4	45
	224		0	7	28		2002		0	5	67
	225		0	4	45		2009		0	1	21
	226		0	5	67		2019		0	4	45
	231		0	0	81		2018		0	8	90
	233		0	1	21		2022		0	0	81
	234		0	2	43		2023		0	4	05
	236		0	0	20		2024		0	6	48
	242		0	2	32		2025		0	1	62
	243		0	0	40		2026		0	1	21
	249		0	7	28		2029		0	0	20
	251		0	6	07		2030		?	7	28
	253		0	2	43		2031		0	4	45
	255		0	5	67		2032		0	3	64
	257		0	2	43		2107		0	7	28
	258		0	0	40		2108		0	5	67
	264		0	0	20		2109		0	1	62
	266		0	5	67		2113		0	0	81
	267		0	3	24		2114		0	13	36
	268		0	0	40		2115		0	4	05
	808		0	1	21		2394		0	6	48
	818		0	0	40		2118		0	4	05
	819		0	5	67	Chandradwip	124	595	0	3	24
	821		0	0	81		810		0	10	52
	822		0	3	24		597		0	13	76
	823		0	6	07		624		0	17	81
	1105		0	0	20		622		0	0	40
	1107		0	0	81		626		0	5	46
	1109		0	2	83		630		0	0	81
	1110		0	0	40		631		0	3	24

1	2	3	4	5	6	1	2	3	4	5	6
Chandrawip-	632	0	10	93		Bilshanda—	96	0	0	20	
(contd.)	636	0	0	20		(contd.)	95	0	13	36	
	637	0	15	38			92	0	0	20	
	639	0	4	86			94	0	4	05	
	640	0	2	43			104	0	7	28	
	641	0	6	07			105	0	4	05	
	676	0	3	24			107	0	9	71	
	677	0	15	38			71	0	2	83	
	818	0	23	48			72	0	4	86	
	684	0	0	81			66	0	11	33	
	748	0	4	86			65	0	5	26	
	750	0	2	43			50	0	0	40	
Nrisinghā-	125	5	0	20			64	0	7	28	
pur	6	0	8	90			51	0	1	62	
	16	0	4	45			54	0	5	26	
	17	0	7	69			52	0	7	28	
	18	0	0	40			56	0	3	24	
	19	0	5	67			25	0	8	90	
	20	0	4	05			1,097	0	5	26	
	38	0	1	21			11	0	4	05	
	47	0	14	57			1058	0	0	40	
	48	0	13	76			1061	0	1	21	
	58	0	2	02			1068	0	14	57	
	63	0	2	43			1067	0	1	61	
	65	0	5	67			1062	0	0	40	
	66	0	0	81			1065	0	1	62	
	67	0	1	62			1063	0	0	80	
	68	0	4	05			1064	0	5	26	
	175	0	6	83			1070	1	1	21	
	178	0	0	81			1066	0	6	48	
	179	0	1	62			1069	0	9	31	
	197	0	4	86							
	198	0	2	83							
	199	0	2	43							
	200	0	0	81							
	203	0	4	05							
	204	0	1	21							
	205	0	0	20							
	208	0	5	67							
	441	0	2	02							
	442	0	0	20							
	443	0	0	81							
	444	0	2	83							
	451	0	0	40							
	452	0	3	24							
	453	0	5	26							
	456	0	0	20							
	458	0	5	26							
	459	0	1	21							
	462	0	3	64							
	463	0	5	67							
	464	0	3	64							
	466	0	4	05							
	467	0	14	16							
	468	0	7	28							
	445	0	0	20							
	465	0	0	20							
	1297	0	0	20							
Bilshanda	127	257	0	3	64						
	1	0	21	44							
	254	0	2	43							
	255	0	0	20							
	256	0	0	20							
	253	0	8	50							
	252	0	2	43							
	194	0	4	05							

[No. R-31015/4/96-OR-I]
K. C. Katech, Under Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

नई दिल्ली, 9 जूलाई, 1996

का. आ. 2217.—कावुल चिकित्सालय, अफगानिस्तान द्वारा प्रदत्त एम डी चिकित्सा अर्हता भारतीय चिकित्सा परिषद अधिनियम 1956 (1956 का 102) की धारा 14 के प्रयोजनार्थ एक मान्यताप्राप्त चिकित्सा अर्हता है।

और डा. (कुमारी) मस्तुदाह जो उपर्युक्त अर्हता रखती है, इस समय माई केयर नर्सिंग होम, सी -42, सार्वजनिक फवर गार्डन, हौजखास एन्ड लेव, नई दिल्ली-110016 में पैन कार्य के प्रयोजन से कार्यरत है;

अतः यह केन्द्रीय सरकार एतद्वारा उक्त अधितियस की धारा 14 की उपलब्धान (1) के परन्तुक के खंड (ग) के अनुसरण में;

(i) इस अधिसूचना के जारी होते की तारीख से एक वर्ष की अवधि को, अथवा

(ii) उस अवधि को जिसके दौरान डा. मस्तुदाह पूर्तकार्य के प्रयोजन से उक्त नर्सिंग होम में कार्यरत है,

इनमें से जो भी कम हो, उस अधिकार के रूप में विनियोग करती है जिसके लिए उपर्युक्त विकिन्सा द्वारा मंडिकल प्रेक्षित सीमित होगी।

[संख्या वी. 11016 / 2 / 96-एम ई (यू.जी.)]

एस. के. मिश्रा, डैक्ट अधिकारी

**MINISTRY OF HEALTH AND FAMILY
WELFARE**

(Department of Health)

New Delhi, the 9th July, 1996

S.O. 2217.—Whereas the medical qualification M.D. granted by the University of Kabul, Afghanistan is a recognised medical qualification for the purpose of section 14 of the Indian Medical Council Act, 1956 (102 of 1956);

And whereas Dr. (Miss) Massudah, who possesses the said qualification is for the time being attached to the Myfair Nursing Home, C-42, Mayfair Gardens, Hauz Khas Enclave, New Delhi-110016 for the purpose of charitable work;

Now, therefore, in pursuance of clause (c) of the proviso to sub-section (1) of section 14 of the said Act, the Central Government hereby specifies;

- (i) a period of one year from the date of issue of this notification, or
- (ii) the period during which Dr. Massudah is attached to the said nursing home for the purpose of charitable work,

whichever is shorter as the period for which the medical practice by the aforesaid doctor shall be limited.

[No. V.11016/2/96-ME(UG)]

S. K. MISHRA, Desk Officer

ग्रामीण क्षेत्र एवं रोजगार संबंधी

नई विनियोग, 1 जुलाई, 1996

का.पा. 2218--पश्चिम श्रेणीकरण और विनियोग नियम, 1964 का और संशोधन करने के लिए निम्नलिखित प्राप्ति नियम जिन्हें केन्द्रीय सरकार, कृषि उपज (श्रेणीकरण और विनियोग) अधिनियम, 1937 (1937 का 1) की धारा 3 द्वारा प्रदत्त विविधों का प्रयोग करते हुए बनाना चाहती है, उक्त धारा की अपेक्षानुसार ऐसे सभी व्यक्तियों की जानकारी के लिए प्रकाशित किए जाते हैं, जिनके उपरे प्रभावित होने की संभावना है, और यह सूचना वी जाती है कि उक्त प्राप्ति नियमों पर, उस तारीख से, जिनको इस अधिकृतगति से यकृत याजपत्र की प्रतियाँ जमता की उपलब्ध करा दी जाती हैं, पैदार्थिम दिन की मवधि की समाप्ति के पश्चात् विचार किया जाएगा।

उक्त प्राप्ति नियमों की बाबत कोई सुझाव या आपेक्षण करने का इच्छुक कोई व्यक्ति, इस प्रकार विनियोग अधिकार के भौतर उन्हें बेन्द्रीय सरकार के विनायक के लिए कृषि विषय मनाहकार, भारत सरकार, विषयन एवं निरीक्षण निदेशालय केन्द्रीय सरकार कार्यालय, नया भवन, नेबरहुड-4, फरीदाबाद (हरियाणा)-121001 का मेजेबाज़।

प्राप्ति नियम

1. इन नियमों का संक्षिप्त नाम पश्चिम श्रेणीकरण और विनियोग (संशोधन, नियम, 1964 है।

2. पश्चिम श्रेणीकरण और विनियोग नियम, 1964 (जिसे इनमें इसके पश्चात् उक्त नियम कहा गया है) में—

(क) अनुसूची-1 अनुसूची 3 और अनुसूची 3क में शब्द और प्रश्न “श्रेणी X” जहाँ-जहाँ वे आये हैं, के स्थान पर “अधिनियम श्रेणी” शब्द क्रमशः रखे जाएंगे।

(ख) अनुसूची 1 अनुसूची 3 और अनुसूची 3क के पात्र टिप्पण में “या किसी अन्य भराके से प्रदृश्यत किया गया है” शब्द के स्थान पर “या अन्तिष्ठिरार्थी प्रथम पत्र या संबोध के लिए दस्तावेजों का परिदान वस्त्रों के लिए नवार संदर्भ या स्वीकृत के लिए दस्तावेज़” शब्द रखे जाएंगे।

3. उक्त नियमों में—

(i) अनुसूची 1 में संघर्ष “व्यास मापन” के नीचे “(i) 5 मिली मीटर के भौतर में जैसे 35 मिलीमीटर और नीचे 35 से 40 और इसी तरह 60 मिलीमीटर तक या

(ii) 2 मिलीमीटर के भौतर में जैसे 35 मिलीमीटर और नीचे, 35—37 मिलीमीटर, 37 से 39 मिलीमीटर और इसी तरह 60 मिलीमीटर तक” प्रश्न, शब्द और श्रंगों के स्थान पर निम्नलिखित प्रश्न, शब्द और श्रंग रखे जाएंगे, पर्याप्त—

“(j) 5 मिलीमीटर के भौतर में जैसे 35 मिलीमीटर और नीचे, ऊपर 35 मिलीमीटर में 40 मिलीमीटर ऊपर 40 मिलीमीटर से 45 मिलीमीटर और इसी तरह 65 मिलीमीटर तक और ऊपर 65 मिलीमीटर” या

(ii) 2 मिलीमीटर के भौतर में जैसे 35 मिलीमीटर, और नीचे, ऊपर 35 मिलीमीटर से 37 मिलीमीटर, ऊपर 37 मिलीमीटर से 39 मिलीमीटर और इसी तरह 65 मिलीमीटर तक और ऊपर 65 मिलीमीटर”

(iii) अनुसूची 1 में “व्यासमापन” संघर्ष के नीचे—

“(i) 5 मिलीमीटर के भौतर में जैसे 28 से 30 मिलीमीटर, 30 से 32 और इसी तरह 40 मिलीमीटर तक और ऊपर” शब्द, प्रश्न, शब्द और श्रंगों के स्थान पर निम्नलिखित प्रश्न, शब्द और श्रंग रखे जाएंगे, पर्याप्त—

“(1) 1 मिलीमीटर के भौतर से जैसे 28 मिलीमीटर तक, ऊपर 28 मिलीमीटर से 30 मिलीमीटर और इसी तरह 40 मिलीमीटर तक और 40 मिलीमीटर से ऊपर”

(iii) अनुसूची 3 में “व्यासमापन” संघर्ष के नीचे—

“(i) 2 मिलीमीटर के भौतर से 13 से 26 मिलीमीटर जैसे 13 में 14, 14 से 16 इत्यादि या

(2) 2 मिलीमीटर के भौतर से 13 से 17 मिलीमीटर जैसे 13 से 15, 15 से 17 इत्यादि” शब्द, प्रश्न, शब्द और श्रंगों के स्थान पर निम्नलिखित शब्द, शब्द और प्रश्न रखे जाएंगे, पर्याप्त—

“(i) 2 मिलीमीटर के भौतर से 13 से 16 मिलीमीटर जैसे 13 मिलीमीटर से 14 मिलीमीटर ऊपर 14 मिलीमीटर से 16 मिलीमीटर इत्यादि या

(2) 2 मिलीमीटर के भौतर से 13 से 17 मिलीमीटर जैसे 13 मिलीमीटर तक 13 मिलीमीटर से 15 मिलीमीटर ऊपर 15 मिलीमीटर से 17 मिलीमीटर इत्यादि”

(iv) अनुसूची 3क में, "व्यासमापन" स्तंभ के नीचे, पो. पू. अथवा श्रेणी 1 के सामने "(1) 2 मिलीमीटर के अंतर से 12 से 16 मि.मी. तके 12 से 14, 14 से 16 आदि अवधार

(') 2 मिलीमीटर के अंतर से 13 से 27 मि.मी. जैसे 13 से 15, 15 से 17 आदि" प्रकार, शब्द और शंकों के स्थान पर निम्नलिखित प्रकार, शब्द और शंक रखे जाएंगे अर्थात्:-

"(1) 2 मि.मी. के अंतर से, 12 से 26 मि.मी. जैसे 12 मि.मी. तक ऊपर 12 मि.मी. से 14 मि.मीटर ऊपर 14 मि.मी. से 16 मि.मी. आदि" या

(2) 2 मि.मी. के अंतर से 13 से 27 मि.मी. जैसे 13 मि.मी. तक ऊपर 13 मि.मी. से 15 मि.मी. ऊपर 15 मि.मी. से 17 मि.मी. आदि,

(v) अनुसूची 3क में, "व्यासमापन स्तंभ के नीचे श्रेणी 3 के सामने :-

(1) 2 मि.मी. के अंतर से 12 से 26 मि.मी. जैसे 12 से 14, 14 से 16 आदि या

(2) 2 मि.मी. के अंतर से 13 से 27 मि.मी., जैसे 13 से 15, 15 से 17 आदि" प्रकार, शब्द और शंकों के स्थान पर निम्नलिखित प्रकार, शब्द और शंक रखे जाएंगे, अर्थात्:-

"(1) 2 मि.मी. के अंतर से 12 से 26 मि.मी. जैसे 12 मि.मी. तक ऊपर 12 से 14 मि.मी., ऊपर 14 मि.मी. से 16 मि.मी." आदि या

(2) 2 मि.मी. के अंतर से 13 से 27 मि.मी. जैसे 13 मि.मी. तक ऊपर 13 से 15 मि.मी., ऊपर 15 मि.मी. से 17 मि.मी. आदि।

(vi) अनुसूची 3क में, "व्यासमापन स्तंभ के नीचे श्रेणी 3 के सामने :-

"(1) 2 मि.मी. के अंतर से 12 से 26 मि.मी. जैसे 12 से 14, 14 से 16 आदि, अवधार

(2) 2 मि.मी. के अंतर से 13 से 27 मि.मी. जैसे 13 से 15, 15 से 17 आदि" प्रकार, शब्द और शंकों के स्थान पर निम्नलिखित प्रकार, शब्द और शंक रखे जाएंगे, अर्थात्:-

"(1) 2 मि.मी. के अंतर से 12 से 26 मि.मी. जैसे 12 मि.मी. तक ऊपर 12 मि.मी. से 14 मि.मी., ऊपर 14 मि.मी. से 16 मि.मी. आदि या

(2) 2 मि.मी. के अंतर से 13 से 27 मि.मी. जैसे 13 मि.मी. तक ऊपर 13 मि.मी. से 15 मि.मीटर, ऊपर 15 मि.मी. से 17 मि.मीटर आदि"

(vii) अनुसूची 3क में "व्यासमापन" स्तंभ के नीचे "अविनिष्टित श्रेणी" के सामने "(1) 2 मि.मी. के अंतर से 12 से 16 मि.मी. जैसे 12 से 14, 14 से 16 आदि या

(2) 2 मि.मी. के अंतर से 13 से 27 मि.मी. जैसे 13 से 15, 15 से 17 आदि" प्रकार, शब्द और शंकों के स्थान पर निम्नलिखित प्रकार, शब्द और शंक रखे जाएंगे अर्थात्:-

"(1) 2 मि.मी. के अंतर से 12 से 26 मि.मी. जैसे 12 मि.मी. तक ऊपर 12 मि.मी. से 14 मि.मी., ऊपर 14 मि.मी. से 16 मि.मी. आदि या

(2) 2 मि.मी. के अंतर से 13 से 27 मि.मी. जैसे 13 मि.मी. तक ऊपर 13 मि.मी. से 15 मि.मी., ऊपर 15 मि.मी. से 17 मि.मी. आदि,"

(viii) अनुसूची 4 में "व्यासमापन" स्तंभ के नीचे

"(1) 2 मि.मी. के अंतर से 26 से 36 मि.मी. जैसे 26 से 28, 28—30 आदि" प्रकार, शब्द और शंकों के स्थान पर निम्नलिखित प्रकार, शब्द और शंक रखे जाएंगे, अर्थात्:-

"(1) 2 मि.मी. के अंतर से 26 से 36 मि.मी. जैसे 26 मि.मी. तक ऊपर 26 मि.मी. से 29 तक 29 मि.मी. से 30 मि.मी. आदि"

4. उक्त नियमों की अनुसूची 1 में, स्तंभ 4 में की सद (1) का (क) (i) के रूप में पुनः संख्याक्रमित किया जाएगा और इस प्रकार पुनः संख्याक्रमित सद (क) (iv) के पश्चात् निम्नलिखित भवन्यापिन किया जाएगा, अर्थात्:-

"भारत सरकार के कृषि विषय पर सलाहकार द्वारा अनुमोदित खा ने योग्य कार्बंड मिर्च के पाउडर या अन्य साधा पदार्थ से भिन्न परिरक्षीय या उपयोग नहीं किया जाएगा।"

[का.सं.- 18011/1/95-एम 11]

पालोट मोहनदास, संयुक्त सचिव

टिप्पणी :-- मूल नियम, भारत के राजपत्र में का.आ. संख्या 3401 तारीख 26 सितंबर, 1964 द्वारा प्रकाशित किए गए थे और का.आ. 2460 तारीख 5 अगस्त, 1975 द्वारा संशोधित किए गए।

MINISTRY OF RURAL AREAS & EMPLOYMENT

New Delhi, the 1st July, 1996

S.O. 2218.—The following draft rules further to amend the Animal Casings Grading and Marking Rules, 1964 which the Central Government proposes to make in exercise of the powers conferred by section 3 of the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937), are hereby published as required by the said section, for information of all persons likely to be affected thereby; and notice is hereby given that the said draft rules will be taken into consideration after the expiry of a period of forty-five days from the date on which copies of the Gazette of India containing this notification are made available to the public;

Any person desirous of making any suggestion or objection in respect of the said draft rules may forward the same for consideration of the Central Government within the period so specified to the Agricultural Marketing Adviser to the Government of India, Directorate of Marketing and Inspection, Central Government Offices, New Building, N.H. IV, Faridabad (Haryana)-121 001.

DRAFT RULES

1. (1) These rules may be called the Animal Casings Grading and Marking (Amendment) Rules, 1996.

2. In the Animal Casings Grading and Marking Rules, 1964 (hereinafter referred to as the said rules),—

(a) in Schedule I, III and III-A for the word and alphabet, "Grade X" wherever they occur, the words "Grade Not Specified" shall respectively be substituted.

(b) in footnotes of Schedule I, III and III-A for the words, "or is guaranteed in some other way", the words, "or Letter of Credit irrevocable or delivery of documents against payment (D/P) or cash payment against documents (CAD) or documents against acceptance (DA)" shall be substituted.

3. In the said rules,—

(i) In Schedule I under the column "Calibration", for the letters, words and figures

- (i) in steps of 5 mm. e.g. 35 mm & below, 35 to 40 and so on upto 60 mm. or
- (ii) in steps of 2 mm e.g. 35 mm & below, 35-37 mm, 37 to 39 mm and so on upto 60 mm.", the following letters, words and figures shall be substituted, namely :—
- (i) in steps of 5 mm. e.g. 35 mm and below, above 35 mm to 40 mm, above 40mm to 45 mm and so on upto 65mm, and above 65 mm" or
- (ii) in steps of 2 mm e.g. 35 mm and below, above 35 mm to 37 mm, above 37mm to 39 mm. and so on upto 65 mm and above 65 mm";
- (ii) in Schedule II under the column "Calibration", for the words, letters and figures
- (i) in steps of 2 mm e.g., 28 to 30 mm, 30 to 32 and so on upto 40 mm and above," the following letters, words and figures shall be substituted, namely :—
- (i) in steps of 2 mm e.g. upto 28 mm, above 28 mm to 30 mm and so on upto 40 mm and above 40 mm.";
- (iii) in Schedule III under the column "Calibration", for the words, letters and figures,
- (1) 12 to 26 mm in steps of 2 mm e.g. 12 to 14, 14 to 16 etc. or
- (2) 13 to 27 mm in steps of 2 mm e.g., 13 to 15, 15 to 17 etc.", the following letters, words and figures shall be substituted, namely :—
- (1) 12 to 26 mm in steps of 2 mm. e.g., upto 12 mm, above 12 mm, to 14 mm, above 14 mm to 16 mm etc. or
- (2) 13 to 27 mm in steps of 2 mm e.g., upto 13 mm, above 13 mm to 15 mm, above 15 mm to 17 mm etc.";
- (iv) in Schedule III A, under the column "Calibration", against PQ or Grade I, for the words, letters and figures,
- (1) 12 to 26 mm, in steps of 2 mm e.g., 12 to 14, 14 to 16, etc. or
- (2) 13 to 27 mm, in steps of 2 mm e.g. 13 to 15, 15 to 17 etc.", the following letters words and figures shall be substituted, namely :—
- (1) 12 to 26 mm, in steps of 2 mm, e.g., upto 12mm, above 12 mm to 14 mm, above 14 mm to 16 mm. etc." or
- (2) 13 to 27 mm, in steps of 2 mm, e.g., upto 13 mm, above 13 mm ; to 15 mm., above 15 mm to 17 mm, etc.";
- (v) in Schedule III 4, under the column "Calibration", against Grade II, for the letters, words and figures,
- (1) 12 to 26 mm in steps of 2 mm e.g., 12 to 14, 14 to 16 etc. or
- (2) 13 to 27 mm in steps of 2 mm e.g., 13 to 15, 15 to 17 etc.", the following letters, words and figures shall be substituted, namely :—
- (1) 12 to 26 mm in steps of 2 mm, e.g., upto 12 mm, above 12 mm to 14 mm, above 14 mm to 16 mm etc." or
- (2) 13 to 27 mm, in steps of 2 mm, e.g., upto 13 mm., above 13 mm to 15 mm, above 15 mm to 17 mm etc.";
- (vi) in Schedule III A, under the column "Calibration", against Grade III, for the letters, words and figures.
- (1) 12 to 26 mm in steps of 2 mm e.g.. 12 to 14, 14 to 16 etc. or
- (2) 13 to 27 mm in steps of 2 mm e.g., 13 to 15, 15 to 17 etc.", the following letters, words and figures shall be substituted, namely :—
- (1) 12 to 26 mm in steps of 2 mm e.g., upto 12 mm, above 12 mm to 14 mm, above 14 mm to 16 mm etc. or
- (2) 13 to 27 mm in steps of 2 mm e.g., upto 13 mm., above 13 mm to 15 mm, above 15 mm to 17 mm etc.";
- (vii) in Schedule III A, under the column "Calibration", against "Grade Not Specified", for the letters, words and figures,
- (1) 12 to 26 mm in steps of 2 mm e.g., 12 to 14, 14to 16 etc. or
- (2) 13 to 27 mm in steps of 2 mm e.g., 13 to 15, 15 to 17, etc.", the following letters, words and figures shall be substituted, namely :—
- (1) 12 to 26 mm in steps of 2 mm e.g., upto 12 mm, above 12 mm to 14 mm, above 14 mm to 16 mm etc. or
- (2) 13 to 27 mm, in steps of 2 mm e.g., upto 13 mm, above 13 mm to 15 mm, above 15 mm to 17 mm etc.";
- (viii) in Schedule IV, under the column "Calibration", for the letters, words and figures
- (1) 26 to 36 mm in steps of 2 mm e.g. 26 to 28, 28-30 etc.", the following letters, words and figures shall be substituted, namely :—
- (1) 26 to 36 mm. in steps of 2 mm. e.g. upto 26 mm, above 26 mm to 28 mm, above 28 mm to 30 mm etc.".
4. In Schedule I to the said rules, in column 4, item (i) shall be renumbered as (a)(i), and after item (a)(iv) as so renumbered, the following shall be inserted, namely :—
- (b) Preservatives other than edible pooper powder or other edible substances approved by the Agricultural Marketing Adviser to the Government of India shall not have been used".

[File No. 18011/1/95-M. II]
PALAT MOHANDAS, Jt. Secy.

Note : The principal rules were published in the Gazette of India vide number S.O. 3401 dated 26th September, 1964 and amended vide number S.O. 2460 dated 2nd August, 1975.

शहरी कार्य और रोजगार मंत्रालय

(शहरी विकास विभाग)

(दिल्ली प्रभाग)

नई दिल्ली, 5 जुलाई, 1996

का.आ. 2219—यतः निम्नांकित क्षेत्रों के बारे में
कुछ संशोधन, जिन्हें केन्द्रीय सरकार अधिवैषित क्षेत्रों के
बारे में दिल्ली बहुद योजना क्षेत्रीय विकास योजना
में प्रस्तावित करती है तथा जिसे दिल्ली विकास
अधिनियम, 1956 (1957 का 61) का धारा 44 के
प्रवादानों के अनुसार द्विनांक 29-4-95 के नोटिस
संख्या एफ-20(3) 93/पीड्वारा प्रकाशित किये गये थे
जिसमें उक्त अधिनियम की धारा 11-की उपधारा

(3) में प्रवेशित आपसियों/सहाव, उक्त नोटिस की तारीख के 30 दिन की अवधि में आमंत्रित किये गये थे।

और यह: प्रस्तावित संशोधनों के बारे में जनता में एक आपसि और सुकाव प्राप्त हुआ है जिस पर प्राधिकरण द्वारा विचार-विमर्श किया गया है;

और यह: केन्द्रीय सरकार ने मामले के सभी पहलुओं पर ध्यानपूर्वक विचार करने के पश्चात् मास्टरप्लान में संशोधन करने का निर्णय किया गया है।

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 11-A की उपवारा (2) द्वारा प्रदल शक्तियों का प्रयोग करते हुए, भारत के राजपत्र में इस अधिसूचना के प्रकाशन को तारीख में दिल्ली की उक्त दृहद योजना में प्रतद्वारा निम्नलिखित संशोधन करती है।

संशोधन:—

“92 हैक्टेयर (227.24 एकड़े) का क्षेत्र जो उत्तर में हरित कृषि भूमि द्वारा छिरा हुआ है, जिसके दक्षिण अनुपूर्वक नाला और बाहरी रिंग रोड है, पूर्व में मकुन्दपुर गांव और और हरित कृषि भूमि है और जिसके पश्चिम में मिल्क डेरो कालोनी और हरित कृषि भूमि है, का भू उपयोग “ग्रामीण उपयोग” में बदलकर “मनोरंजनात्मक” भलस्वा झील परिसर का 84 हैक्टेयर और “वाणिज्यिक” 6 हैक्टेयर किया जाता है।

[सं० के-13011/21/94 डॉडी.वी-1-वी]

आर. विश्वनाथन, अवर सचिव

MINISTRY OF URBAN AFFAIRS & EMPLOYMENT

(Department of Urban Development)
(Delhi Division)

New Delhi, the 5th July, 1996

S.O. 2219.—Whereas certain modification which the Central Government proposed to make in the Master Plan for Delhi-Zonal Development Plan regarding the area mentioned hereunder were published with Notice No. F. 20(3)93/MP dated 29th April, 1995 in accordance with the provisions of Section 44 of the Delhi Development Act, 1956 (61 of 1957) inviting objections/suggestions as required by sub-section (3) of Section 11-A of the said Act, within thirty days from the date of the said notice;

Whereas one objection/suggestion was received from the public with regard to the proposed modification, which has been considered by the Authority.

And whereas the Central Government have, after carefully considering all aspects of the matter, decided to modify the Master Plan;

Now, therefore, in exercise of the powers conferred by sub-section (2) of Section 11-A of the said Act, the Central Government hereby makes the following modification in the said Master Plan for Delhi with effect from the date of publication of this Notification in the Gazette of India.

MODIFICATION

“The land use of an area measuring 92 ha. (227.24 acres) and bounded by agricultural green land in the North, supplementary drain and Outer Ring Road in the South, Mukundpur village and agricultural green in the East and Milk Dairy Colony and agricultural green in the West is

changed from ‘rural use’ to ‘recreational’ (84 ha. of Bhalswa Lake Complex) and ‘commercial’ (8 ha.).”

[No. K-13011/21/94-DDIB]

R. VISWANATHAN, Under Secy.

जन भूत्तन परिवहन मंत्रालय

नई दिल्ली, 15 जुलाई, 1996

का.आ. 2220.—भारत सरकार, निम्नलिखित कार्यालयों को, जहाँ 80% कर्मचारियों ने हिन्दी का कार्यसाधक शान प्राप्त कर लिया है और जो इस मंत्रालय के प्रशासनिक नियंत्रण में हैं, राजभाषा (संघ के सरकारी उद्देश्य के लिये प्रयोग) नियमावली, 1976 के नियम 10 के उपनियम (4) के तहत अधिसूचित करती है।

(1) नव मंगलूर पत्तन न्यास, मंगलूर

(2) भारतीय अंतर्राष्ट्रीय जलमार्ग प्राधिकरण, नोएडा, उ.प्र.

[फा.म. ई-11011/7/96-हिन्दी]

एस.के. ओझा, निदेशक

MINISTRY OF SURFACE TRANSPORT

New Delhi, the 15th July, 1996

S.O. 2220.—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (use for the Official purposes of the Union) Rules, 1976, the Government of India hereby notifies the following offices under the administrative control of the Ministry of Surface Transport where 80 per cent of staff have acquired working knowledge in Hindi.

1. New Mangalore Port Trust, Mangalore.

2. Inland Waterways Authority of India, Noida, U.P.

[F. No. E-11011/7/96-Hindi]

S. K. OJHA, Director

श्रम मंत्रालय

नई दिल्ली, 28 जून, 1996

का.आ. 2221.—ओर्डोरिंग विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भिलाई स्टील प्लान्ट के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निविट ओर्डोरिंग विवाद में केन्द्रीय सरकार ओर्डोरिंग अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-6-96 को प्राप्त हुआ था।

[संख्या एल-29012/114/94-आई आर(एम)]

दी.जे. माईकल, डैस्ट्रिक्ट अधिकारी

MINISTRY OF LABOUR

New Delhi, the 28th June, 1996

S.O. 2221.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Bhilai Steel Plant and their workman, which was received by the Central Government on 28th June, 1996.

[No. L-29012/114-94-IR(M)]
P. J. MICHEAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)
Case Ref. No. CGIT/LC(R)(121)|1995

BETWEEN

Shri Sudanand represented through the Secretary, Hindustan Steel Employees Union Post Dallirajhara, District Durg (MP)-491228.

AND

The Managing Director, Bhilai Steel Plant, Bhilai District Durg (MP)-490006.

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workmen—None

For Management—Shri Ravi Shankar.

INDUSTRY : Iron Ore Mine. DISTRICT : Durg (MP)

AWARD

Dated : May 10, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-29012/114] 94-IR (Vividh) dated 12th July, 1995, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the management of Bhilai Steel Plant in relation to their Rajhara Iron Ore Mines in not promoting Shri Sudanand Pointsman to the post of Operator (Loco) in his existing grade is justified ? If not, to what relief the workman is entitled to?"

2. Workman has not appeared nor he has filed the statement of claim inspite of the repeated notice were sent to the workman. It appears that the workman is not interested in pursuing the dispute. Consequently no dispute is passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 28 जून, 1996

का.आ. 2222.—ओर्डोरिंग विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार माइन्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओर्डोरिंग विवाद में केन्द्रीय सरकार ओर्डोरिंग अधिकारण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-6-96 को प्राप्त हुआ था।

[संख्या एल-27012/1/95-भाई आर (एम)]
पी.जे. माइकल, ईस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2222.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Mine and their workman, which was received by the Central Government on 25th June, 1996.

[No. L-27012/1/95-IR(M)]
P. J. MICHEAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

Case Ref. No. CGIT/LC(R)(121)|1995

BETWEEN

Shri N. M. Limbachiya, Ex-Cashier of Balaghat Manganese Mine of MOIL, P.O. Barweli, District Balaghat (MP).

AND

The Chairman-cum-Managing Director, Manganese Ore (India) Ltd., 3 Mount Road Extension, Nagpur (MS).

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman—None.

For management—Shri A. K. Shashi, Advocate.

INDUSTRY : Manganese Mine.

DISTRICT : Balaghat (MP)

AWARD

Dated : May 1, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-27012/1/95-IR(Misc.) Dated 27th June, 1995, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of Superintendent (Mines) Balaghat Mine of Manganese Ore (India) Ltd., P.O. Bharweli, District Balaghat (M.P.) in dismissing from services of Sri N. M. Lambachiya, Accountant of Balaghat Mine of MOIL w.e.f. 19th January, 1994 is proper and justified ? If not, to what relief the said workman is entitled to?"

2. This reference was received on 4th July, 1995 and since then inspite of the repeated notices, the workman has not appeared and he has not filed the statement of claim.

3. Management has prayed to pass a no dispute award. It is clear that the workman is not interested in pursuing the dispute and as such I have no option, but to pass no dispute award. No dispute award is hereby passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 28 जून, 1996

का.आ. 2223.—ओर्डोरिंग विवाद प्रधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पोर्ट एंड डॉक्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओर्डोरिंग विवाद में केन्द्रीय सरकार ओर्डोरिंग अधिकारण बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[संख्या एल-31012/13/87-ओ-4(ए)]
पी.जे. माइकल, ईस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2223.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Port and Docks and their workman, which was received by the Central Government on 25-6-1996.

[No. L-31012/13/87-D.IV (A)]
P. J. MICHEAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT :

Shri Justice R. S. Verma, Presiding Officer.
Reference No. CGIT-1 32 of 1993

PARTIES :

Employers in relation to the management of Bombay Dock Labour Board

AND

Their workmen.

APPEARANCES :

For the Management—Shri Patil, Advocate.

For the Workman—Shri P. K. Sharma along with Shri Gopalkrishnan, Advocate and Ms. Shobha Gopal, Advocate.

INDUSTRY : Ports & Docks STATE : Maharashtra Mumbai, the 5th day of June, 1996

AWARD

Shri P. K. Sharma for union along with Shri Gopalkrishnan, Advocate and Ms. Shobha Gopal, Advocate. Mr. Patil for management. Shri P. K. Sharma has moved an application to the effect that one of the workmen involved in Shri Mujawar and he is not traceable and hence statements of claim and documents filed by other workmen be treated as statement of claim and documents in respect of Mujawar also.

2. Ms. Shobha Gopal has filed today 29 documents. An application was filed earlier on 5-12-95 on behalf of the union for directing the management to produce documents, (iv) in number and listed in the schedule to the said application.

3. I asked Ms. Shobha Gopal about the relevancy of the said documents upon which she submitted that the documents were necessary to establish that the workmen in question were really employees of the management and not employees of the contractor, as alleged by the management.

4. At this stage, Shri Gopal Krishnan took over the thread of the argument and submitted that since management had pleaded that the workmen were not its employees, but were employees of the contractor, this Tribunal should go into this question and should ask the management to lead evidence to prove that the workmen were the employees of the management of Dock Labour Board.

5. This was counted by Mr. Patil, who referred to some documents in support of his plea that the employees in question were not employees of the B.D.L.B. but were employees of the contractor.

6. At this Shri Gopal Krishnan urged that this Tribunal has to pierce the veil and look to the true position as to who was the real employer. He was joined by Shri Suresh S. Pukale who submitted that wrongful termination of the workmen was the basic question and it was merely an incidental question, if the workmen were employees of B.D.L.B. or of contractor.

7. I have considered the rival contentions. The dispute referred to this Tribunal is couched in the following terms :

“क्या बम्बई डॉक लेवर बोर्ड, बम्बई के बम्बई स्थित चिकित्सा विभाग के प्रबंधनकर्ता की 31-8-1983 से सर्वश्री कृपाशंकर शुक्ला, अधोक विट्ठल जादव तथा प.जी. मुजावर एम्बुलेंस बाई ल्याय की मेवां समाप्त करने की कार्रवाई न्यायोचित है? यदि नहीं तो संबंधित कर्मकार किस अनुतोष के हकदार हैं?”

8. The aforesaid reference assumes that the workmen in question were the employees of the Hospital Department of the Dock Labour Board and upon such assumption refer-

red the dispute regarding alleged termination of their services.

9. Now, it is settled law that this Tribunal is a Tribunal of reference. It can not travel beyond the terms of references. However, it can always go into and adjudicate upon incidental question arising from the reference. However, if the basic dispute itself is not referred to the Tribunal and the appropriate Government, in its wisdom and discretion, assumes a particular fact situation, though in dispute and refers only incidental question, to the Tribunal, the question is whether the Tribunal can go into the fact situation at all, which is not merely incidental but foundational.

10. To my mind, if a basic and foundational dispute is referred to the Tribunal, then it can go into incidental questions. But, to my mind, the reverse would not hold good. Now, the basic question and dispute in this case is whether the workmen in question were the employees of the Hospital Department of B.D.L.B. If this fundamental question is answered in favour of the workmen, then the incidental question would be whether termination of their services was bad.

11. I agree with Shri Gopal Krishnan that if the dispute on the first point would have been referred squarely to this Tribunal, the Tribunal could have gone into the evidence and could have lifted the veil to ascertain the true facts and could have examined the question if the workmen were the employees of the B.D.L.B. or that of the contractor.

12. However, since the very foundational question has not been referred to, this reference to my mind, is bad and deserves to be rejected. However, the union and workmen can get the reference modified and can set the foundational dispute referred to and in that event the Tribunal would be required to examine, both the foundational issue/dispute of employer-employee relationship between B.D.L.B and its workmen and shall also be entitled to examine the legality or otherwise, of the alleged termination of services. Till this is done, the Tribunal cannot go into the reference and rejects the same. In the circumstances of the case, parties are left to bear their own costs.

R. S. VERMA, Presiding Officer

नई दिल्ली, 28 जून, 1996

का.आ. 2224.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तरण में, केन्द्रीय सरकार पोर्ट ट्रस्ट के प्रबंधनकर्ता के मंबद्ध नियोजकों और उनके कर्मकारों के बीच, अन्वेषण में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण, बम्बई के पंचपट को प्रकाशित करनी है, जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[संख्या ए.ल-31011/22/90-आई आर(एम)]

पी.जी. मिकेल, ईस्प अधिकारी

New Delhi, the 28th June, 1996

S.O. 2224.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Port Trust and their workman, which was received by the Central Government on 25-6-1996.

[No. L-31011-22/90-IR (M)]
P. J. MICHEAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT :

Shri Justice R. S. Verma, Presiding Officer
Reference No. CGIT-1/28 of 1991

PARTIES :

Employers in relation to the management of Bombay Port Trust, Bombay

AND

Their workmen

APPEARANCES :

For the Management—Shri M. B. Anchan, Advocate.
 For the Workman—Shri J.P. Sawant, Advocate.

INDUSTRY : Ports and Docks STATE : Maharashtra

Mumbai, the 7th day of June, 1996

AWARD

Shri J. P. Sawant—for union.
 Shri M. B. Anchan—for management.

The workman was dismissed from service for losing his identity card after holding an enquiry. He raised an industrial dispute and the same was referred to this Tribunal for adjudication in the following terms :

"Whether the management of Bombay Port Trust, Bombay, were justified in dismissing from service of Shri T. K. Baadkar, Rivetting Mazdoor in Chief Mechanical Engineer Office for a mere loss of Photo Identity Card ? If not, to what relief is the workman entitled to ?"

My worthy predecessor, after duly hearing both the sides was of the view that a proper and fair domestic enquiry had been made. This finding was challenged before Hon'ble the Bombay High Court, which was of the view that loss of identity card was not a misconduct under service Rules and Regulations. The Hon'ble High Court, however, remanded the matter with a direction to reconsider the matter in the light of Section 11-A of the I. D. Act.

Shri M. B. Anchan could not point out how loss of identity card was a misconduct or how it was related to performance of the duties of the workman.

When it is so, the dismissal of the workman could not be sustained and has got to be set aside. He is ordered to be reinstated with back wages. However, he is expected to be more careful in keeping his identity card. The order of dismissal is thus set aside and is visited by censure as stated above. In the circumstances of the case, the parties shall bear their own costs.

Award is made accordingly.

R. S. VERMA, Presiding Officer

नई दिल्ली, 28 जून, 1996

का.आ. 2225.—औदोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अंतरण में, केन्द्रीय सरकार ए डी सी एंड सन्स लि., के प्रबंधताव के अंतर्भूत नियोजकों और उनके कर्मकारों के दीच, अनुदंध में निर्दिष्ट औदोगिक विवाद में केन्द्रीय सरकार औदोगिक अधिकरण, बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[संख्या एन-31011/19/90-प्राइवेट (एम)]

पी.जे. मार्थकल, ईस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2225.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of ABC and Sons Ltd. and their workman was received by the Central Government on 25-6-1996.

[No. L-31011/19/90-IR (M)]

P. J. MICHEAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT :

Shri Justice R. S. Verma, Presiding Officer.
 Reference No. CGIT-1/90 of 1990

PARTIES :

Employers in relation to the management of M/s. ABC and Sons Pvt. Ltd., Bombay

AND

Their workmen.

APPEARANCES :

For the Management—Shri Kantharia, Advocate.
 For the Workman—Shri Neel Helekar, Advocate.

INDUSTRY : Ports & Docks STATE : Maharashtra

Mumbai, the 13th day of June, 1996

AWARD

The appropriate Government has referred the following dispute for adjudication to this Tribunal :

"Whether the demand of the Bharatiya Mazdoor Sangh for reinstatement of 30 Bargemen (Annexure I) with effect from 1-12-1988 by the Management of Messers. Ardesher B. Cursetjee and Sons Pvt. Limited—Bombay is justified. If so, to what relief are these workmen entitled ?"

2. The union filed its claim on 18-6-1991. The management resisted the claim and filed its reply on 10-9-91.

3. Briefly stated, the case of the union is that 30 Bargemen, whose names appear in Annexure I to the order of reference were casual/temporary workmen serving under the employer M/s. Ardesher B. Cursetjee and Sons (Pvt.) Ltd. Their services were terminated by the employer on 1-12-88 illegally and without any just cause. All the workmen are members of the union known Mumbai Mazdoor Sangh. The union challenged the legality of the termination of the services of the said workmen by taking the matter to conciliation. The conciliation failed and on receipt of failure report, the appropriate Government referred the dispute as stated above.

4. The case of the union is that all the workmen had put in service for long periods but the employer terminated their services without obtaining prior permission of the Government. The retrenched employees were not paid any notice pay, nor were paid any retrenchment compensation. Hence, the retrenchment was bad. They inter alia prayed that the employer be directed to reinstate all the employees with back wages.

5. The case of the management was that the workmen in question were purely casual/temporary workers. None of the workmen in question were in the employment of the employer on 1-12-88. The company had 324 permanent workers in the Barge Deptt. Since, there was no work in the company even for the said permanent workers, the Barge Deptt. was closed and even their services were retrenched. It was pleaded that the workmen in question had worked only for specified periods and had been paid for such periods. Hence, there was no occasion for termination of their services or of giving any notice pay or compensation.

6. The union filed affidavit of one witness V. K. Bhojane in support of its case, who was duly cross-examined. The management filed affidavit of one witness viz. N. B. Jamnepur. He was also duly cross-examined. The union did not file any documentary evidence. The management has filed three documents.

7. I have heard the learned counsel for the parties at length. The principal question to be decided in this dispute is whether the 30 workmen, whose names appear in Annexure I to the order of reference worked continuously till 1-12-88 and being services were terminated without pay-

ment of legal dues, if any and hence they were entitled to be reinstated with back wages w.e.f. 1-12-88.

8. In his affidavit, V. K. Bhojane has said to the effect that workmen were employed as Bergemen in the first party company and their services were terminated without any reason and without payment of any dues. In his cross-examination, he admitted that the workman in question were casual/temporary. Work was assigned wherever available. He was shown statement Ex. M-3 pertaining to the 30 workmen in question. He admitted that Ex. M-3 contained correct recitals about the number of days for which the employees worked. He admitted that he did not know if the Barge Department had been closed in November, 1988.

9. The position emerging from Ex. M-3 is that none of the 30 workmen was on job on 1-12-88. During the year 1987, each one of them worked intermittently. The same was the position in 1988. None of the workmen had completed 240 days prior to alleged termination. Mr. N. B. Jamnekar has stated in his affidavit that the workmen concerned were employed prior to September 1988 purely on ad-hoc and temporary basis to meet exigencies of work. He has proved Ex. M-3. In his cross-examination, he has made it clear that the workmen were paid wages on a daily basis. Hence, no notice was given to them. He has also clarified that no dues were to be paid to them.

10. On a conspectus of the entire circumstances of the case, it has not been proved that the workmen in question had been continuously in job till 1-12-88 and had been retrenched without payment of legal dues. Actually, the position established on record is that they were all casual workmen, who worked intermittently in different months on specified days and were paid wages for work done. None of them has been shown to have worked continuously for 240 days or more preceding the alleged date of retrenchment.

11. Mr. Neel Helekar urged vehemently but the management closed the Barge Deptt. without obtaining prior permission of the Government and hence the closure was bad within the meaning of Section 25(o) of the Industrial Disputes Act and hence under sub-section (6) of this Section the workmen should be held entitled to all benefits, as if the Barge Deptt. had not been closed. This argument, though attractive apparently, has really no legs to stand upon because firstly the question of legality of closure or otherwise has not been referred at all to this Tribunal and secondly the workman being casual and being assigned work as the exigencies arose, did not have any right to be entitled to reinstatement or any notice pay or compensation because none was due under the law.

12. It would not be out of place to mention that due to closure of the Barge Section, 324 permanent employees had been retrenched; they challenged the retrenchment and dispute was admittedly referred to CGIT No. 2, Bombay being Ref. No. CGIT-2/24 of 1989. The claim of the union representing the said permanent workmen was rejected by award dated 11-1-95. A Writ filed against the said award was also dismissed. I do not think that the present casual workmen could have any case at all.

13. No other point was urged before me.

14. The reference is answered accordingly viz, that the workmen have failed to prove that they are entitled to be reinstated w.e.f. 1-12-88. The claim is rejected.

Award is made accordingly.

R. S. VERMA, Presiding Officer

नई दिल्ली, 28 जून, 1996

का.आ. 2226.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गनरल इंजिनियर फैक्ट्री के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण, जबलपुर

के प्रबंधत को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[संलग्न नं.-14012/9/92-आईआर(डी.यू.ओ.)]
पा.जे. माईकल, डैस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2226.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Gun Carriage Factory, and their workman, which was received by the Central Government on 25-6-1996.

[No. L-14012/9/92-IR (DU)]

P. J. MICHAEL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC (R)(197)/1993

BETWEEN

Shri R. S. Tripathy, C/o Shri Suresh Gangwar, General Secretary, G.C.F. Labour Union Office 130/4, Vidya Nagar, G.C.F. Estate Jabalpur (MP)-482001.

AND

The General Manager, Gun Carriage Factory, Jabalpur (MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman—Himself.

For management—Shri B. Da'Silva, Advocate.

INDUSTRY : Gun Factory DISTRICT : Jabalpur (MP).

AWARD

Dated, the 4th April, 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-14012/9/92-IR (DU) dated 24-9-1993, for adjudication of the following industrial dispute :—

SCHEDULE

“क्या प्रबंधतंत्र गत कैरेज फैक्ट्री, जबलपुर (म.प्र.) के प्रबंधकों द्वारा श्री आर.एस. लिपाठो को आदेश दिनांकित 9-12-91 द्वारा एक वार्षिक बेतन बढ़ रोके जाने, आदेश दिनांकित 9-12-91 द्वारा संसर आदेश दिनांक 7-9-91, 13-8-91 द्वारा चेतावनी को दृष्टव्यरूप कार्यवाही एवं उनके वार्षिक गोपनीय चरिकावली में प्रतिकूल टिप्पणी किये जाने की कार्यवाही न्यायोचित है? यदि नहीं तो संझित कर्मकार किस अनुदोष का हकदार है?”

2. The case of the workman is that he is one of the representative of the Registered Union of Gun Carriage Factory and the workman participated in strike held against the management for the anti-workers policy and reduction of Overtime payment to the workmen without any justification; that the management passed the impugned order against the workman arbitrarily.

3. The case of the management is that the workman committed the misconduct of insulting the authority and burning approximately 500 message and circulars of the General Manager and for committing and instigating the act of insubordination.

4. Terms of reference was made the issue in the case.

5. Workman remained absent after filing the statement of claim on 9-9-95. The workman has not filed rejoinder and documents inspite of the repeated opportunity granted to him. Workman has not led any evidence to show that the enquiry against him was illegal or improper and the action of the management imposing the impugned penalty of censor was not in accordance with the facts and law. Workman has failed to discharge the initial burden. Consequently, reference is answered in favour of the management and the action of management imposing the impugned penalty is held just, fair and proper. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 28 जून, 1996

का.आ. 2227.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक के प्रबंधन के संबंध नियोजकों द्वारा उनके कर्मकारों के बीच, अनुदंधि में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारी, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[मंलया एल-40012/90/91-प्राई आर(डीयू)]

पौ.जे. माइकल, डैस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2227.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Post and their workman, which was received by the Central Government on 25-6-1996.

[No. L-40012/90/91-IR (DU)]

P. J. MICHAEL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)
Case Ref. No. CGIT/LC (R)(219)/1991

BETWEEN

Shri S. C. Choudhary, Kushipura, Dal Singh Building,
Subhash Nagar Ward, Sagar (MP)-470061.

AND

The Sr. Supdt. of Post Office, Sagar Division, Sagar
and The Director, Postal Services, Raipur Region,
Raipur (MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy

APPEARANCES :

For workman—Shri P. G. Kehatriya, Advocate
For Management—Shri R. P. Kakoria, Advocate.

INDUSTRY : P&T

DISTRICT : Sagar (MP)

AWARD

Dated, the 16th April, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-40012/90/91-IR (DU) dated 14/19-11-1991, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the management of Sr. Supdt of Post Office, Sagar Division, Sagar (M.P.) in compulsorily retiring Shri S. C. Choudhary, Postal Assistant, vide their order dated 4-5-90 is justified? If not, to what relief he is entitled to?”

2 Admitted facts of the case are that the workman Shri S. C. Choudhary, was working as a Postal Assistant in the office of the S.S.P. Sagar. It is common ground that the T.A. Bill was submitted by the workman of his transfer from Sagar to Narsinghpur and along with it the workman submitted the receipt of Rs. 600 for the transportation of his domestic luggage. It is also the common ground that the charge-sheet was issued against the workman on the allegation that the workman has submitted the forged and fabricated receipt of Rs. 600 for the transportation of his domestic luggage.

3. The case of the workman is that he has submitted the confession letter dated 4-10-89 under the influence of the Enquiry Officer and on account of the mental torture; that no evidence was adduced during the enquiry; that the personal luggage was actually transported by the workman in the truck; that the finding of the Enquiry Officer is perverse; that the Disciplinary Authority has not provided him the required opportunity to argue his case before him; that the punishment of compulsory retirement was imposed without proper hearing and it is highly disproportionate and illegal.

4. The management has alleged that the workman has filed the receipt of Rs. 600 of the transportation of his luggage by the truck and the alleged truck was not found registered in the R.T.O. Office; that the workman has filed two receipts signed by the different drivers and the receipt was false and fabricated; that the workman made the bogus claim of Rs. 600 on the basis of these false receipts; that there was no violation of natural justice during the domestic enquiry and the charges are proved and the punishment of compulsory retirement was proper.

5. Following are the issues framed in the case :—

ISSUES

1. Whether the enquiry is just, proper and legal ?
2. Whether the management is entitled to lead evidence before this Tribunal ?
3. Whether the charges of misconduct are proved on the facts of the case ?
4. Whether the punishment awarded is proper and legal ?
5. Relief and costs ?

Additional issue :

6. Whether the order of the Director Postal Services Raipur, dated 4-5-90, under Rule 29(1)(v) of the CCS (CCA) Rules 1965 of sue motto revision of the order of the SS POS Sagar, dated 24-10-89, and to inflict enhance punishment of Compulsory Retirement of the worker Shri S. C. Choudhary, P.A. Sagar, is justified ?

6. Issues No. 1 and 2.—The domestic enquiry is held just, proper and legal and Issues No. 1 and 2 were answered in favour of the management vide order dated 31-1-95.

7. Issues No. 3 to 6.—The workman has admitted the receipt of Rs. 600 for the claim of luggage transportation was submitted by him; that the receipt dated 11-9-88 was signed by Abdul Qayum. It is also not in dispute that again on 22-9-88 the workman submitted another receipt Rs. 600 bearing the signature of Abdul Aziz. Truck No. in the first receipt was MPA 5657 while in the second receipt the truck number was shown as 5826. Consequently, it is clear that the truck number in both the receipts submitted by the workman were different and the name of the driver in both the receipts were also different. The alleged trucks were not registered in the R.T.O. Office. Workman has not examined any witness nor driver or the executant driver of the said receipts to prove that the receipts were genuine or the luggage of the workman were transported by the truck. Apart from these two contradictory receipts which

are apparently false there is strong evidence to prove that the workman made the bogus claim of Rs. 600 by submitting the fabricated receipts. The Workman has admitted the Annexure A-4 was executed by him during the enquiry Annexure A-4 executed on 4-10-89 is a confession made by the workman and the charges levelled against the workman are clearly proved vide Annexure A-4 dated 4-10-89. The workman has alleged that he made the confession under the mental torture and the influence of Shri N. C. Sharma. Workman has not made any oral or written statement to retract the confession dated 4-10-89 (Annexure A-4). Consequently, the workman cannot successfully assailed the confession (Annexure A-4) after unusual and unexplained delay on the ground that it was executed under the mental torture. Consequently, there is sufficient evidence to hold that the workman has committed the misconduct of making false claim on the basis of forged receipts.

8. The conspiracy to such an offence of cheating is always hatched in secrecy. The circumstance and the attending act or omission are the proof of such cheating and conspiracy. See Shiv Narayan case AIR 1980 S.C. 439.

9. The workman has alleged that the proper opportunity of hearing was not granted to him before imposing the punishment of compulsory retirement. Notice dated 6-1-90 was issued to the workman and the representation dated 14-2-90 was sent by the workman to the office. Shri M. S. Bali, Director, Postal Services has considered the facts and circumstances of the case and the representation made by the workman. The confession (Annexure A-4) is clear and in detail and in the handwriting of the workman. Consequently, the allegation of the workman that proper opportunity was not granted to him before the impugned punishment was imposed.

10. The punishment of compulsory retirement to the workman is not harsh and is consonance with the gravity of the offence. Learned Director, Postal Service has rightly observed that the lenient action of compulsory retirement is exercised against the workman.

11. Consequently, it is held that the action of the management in compulsorily retiring the workman is just, proper and legal. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 28 जून, 1996

का.आ. 2228.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में केन्द्रीय सरकार में भवानीवास एण्ड सन्स के प्रबंधतन्त्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बम्बई के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[सं. एन-31012/6/91-आईआर (एम)]

मि. जे. माईकल, ईम्पक अधिकारी

New Delhi, the 28th June, 1996

S.O. 2228.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Bhavanidas and Sons and their workman, which was received by the Central Government on 25-6-1996.

[No. L-31012/6/91-IR (M)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 MUMBAI

PRESENT :

Shri Justice R. S. Verma, Presiding Officer
Reference No CGIT-1/65 of 1991

PARTIES :

Employers in relation to the management of M/s.
Bhavanidas and Sons, Bombay

AND

Their workmen

APPEARANCES :

For the Management—Mr. Kamibhai J. Kakkad,

For the Workmen—Workman present in person.

INDUSTRY : Ports and Docks STATE : Maharashtra
Mumbai, the 14th day of June, 1996

AWARD

The appropriate Government referred the following dispute for adjudication to this Tribunal :

"Whether the management of M/s. Bhavanidas and Sons, a Custom House Agents—were justified in suspending and terminating the services of Shri Rajaram Laxman Kashid, Dock Clerk, unilaterally w.e.f. 17-4-86—when the workman had put in unstinted continuous service of 15 years ? If not, to what relief is the workman entitled to ?"

2. The brief facts giving rise to this dispute are as follows : Shri Rajaram Laxman Kashid, herein after the workman, was in permanent employment of M/s. Bhavanidas and Sons, a company engaged in the work of shipping, clearing forwarding and insurance. By 17-4-86, the workman had put in more than 15 years service and his last drawn salary was Rs. 1,850 p.m.

3. It appears that the workman remained absent from duty in the months of January, February, March and April 1986 for certain days. On 28-1-86, the company wrote a letter (Ex. W-2) to the workman alleging that he had absented from duty without prior permission. He was asked to explain as to why he may not be suspended from duty. To thus, the workman gave a written reply Ex. W-3 dated 3-2-86 to the effect that since his uncle had expired on 19-1-86 he had applied for 4 days leave and had met Shri Kakkad for grant of leave from 27-1-86 and had proceeded on leave on 26-1-86. He denied that he had proceeded on leave without permission. It does not appear that the management conducted any enquiry into the charge of remaining absent from duty without permission on the aforesaid occasion. However, the management by its letter dated 4th February, 1986 (Ex. W-4) maintained that the workman had proceeded on leave without permission and his application for leave dated 24-1-86 was not sanctioned. By this letter, the management wanted the workman to give a written guarantee that he would not take leave for six months.

4. The workman replied to this letter by Ex. W-5 dated 7-2-86. He stated therein to the effect that he had gone to his native place due to unavoidable circumstances. He did not, however, reiterate that he had gone with prior permission, as alleged in his earlier letter. He chose to keep quiet on this part of the management's averment.

5. It appears that the workman absented himself on 28-2-86, 1-3-86, 27-3-86 and 28-3-86, 17-4-86 and 18-4-86 and the management served him with a letter Ex. W-1 dated 19-4-86 wherein it was alleged that he had absented himself from duty on the said dates without permission. By this letter, the management on one hand purported to put the workman on suspension w.e.f. 17-4-86 and on the other hand directed discontinuance of the workman's services with effect from the said date.

6. It appears that thereafter the workman was not taken on duty. It further appears that the workman joined another firm on 1-5-86 at a higher salary of Rs. 2000 per month on a temporary basis and continued to serve the new

firm till 1-3-88. He subsequently changed some firms and remained thus in employment of certain other firms. Meanwhile, on 23rd October, 1987, he served a notice Ex. W-6 on the management demanding certain monetary reliefs. This letter was duly replied to by the management on 3rd December, 1987.

7. It further appears that the workman filed an application LC-2/2 of 1988 Rajaram Taxman Kashid vs. M/s. Bhavanidas and Sons and anr. U/s 33-C of the Industrial Disputes Act before CGIT and Labour Court No. 2 Bombay, wherein he claimed to be under suspension and claimed recovery of Rs. 34,687 on account of subsistence allowance and other monetary reliefs. This application was opposed by the management on numerous grounds. A stand was inter alia taken that the services of the workman had been terminated and he was not under suspension. Faced with this stand of the employer, the workman withdrew his claim for suspension allowances and other monetary claims were not granted since they depended upon adjudication of the fact whether the services of the workman had been terminated.

8. It appears that thereafter the workman raised a dispute, which was taken into conciliation. The conciliation did not meet with any success and eventually on a failure report being submitted, the appropriate Government made a reference as above.

9. The workman filed his claim on 24-1-92 wherein he inter alia pleaded that his services were terminated with effect from 17-4-1986 without holding any domestic enquiry against him and without payment of retrenchment benefits and without complying with the provisions of Section 25-F of the Industrial Disputes Act. He, therefore, claimed reinstatement with continuity of service and back wages.

10. The management filed its reply to the statement of claim. It alluded to the application moved by the workman before Labour Court No. 2 Bombay and submitted that workman had been taking inconsistent stands. The management denied the averment about retrenchment without holding a domestic enquiry or without complying with the provisions of Section 25-F of the Industrial Disputes Act or without payment of retrenchment compensation. They contended that the workman be put to strict proof of his averment. The case of the management was that the workman himself left the employment for better prospects. It was stated that the workman was not entitled to reinstatement with continuity of service and back wages.

11. The workman filed a rejoinder on 17-11-95 and reiterated that no domestic enquiry had been held against him. He reiterated that no retrenchment compensation was paid and termination of his services was bad. He, therefore, reiterated his claim for reinstatement with continuity of service and back wages.

12. Both the parties filed some documents and thereafter the case was adjourned on some dates. On 12-4-96, nobody appeared for the management and the matter was ordered to be heard ex parte and the workman was directed to file his affidavit, if any. The case was adjourned to 20-4-96 but on that date also, management did not choose to appear and the case was adjourned to 6-6-96 for evidence of the workman.

13. On 6-6-96, the workman filed his affidavit. One Shri K. K. Kakkad appeared for the management and he was informed that till ex parte order dated 12-4-96 and was further informed that till ex parte order was not set aside, he could not be heard. Inspite of this, he did not indicate that he would take any steps to get the ex parte order set aside; actually no steps were taken to get the ex parte order set aside. Hence, I heard the workman in support of his case.

14. That the workman was a permanent employee of the opposite party and had put in service of more than 15 years prior to termination of his services has not been denied by the employer at any stage of the proceedings. The workman in his affidavit has specifically asserted that he had worked for more than 15 years with the employer and his last drawn wages were Rs. 1850 p.m. I have no reason to doubt the veracity of this statement and I hold that the workman had been continuously in service of the opposite party employer for more

than 15 years as a Clerk and his last drawn wages were Rs. 1850 p.m.

15. Now, the employer had a right to terminate the services of the workman either by holding a due domestic enquiry and inflicting the punishment of removal or dismissal or by resorting to the provisions of Section 25-F of the Industrial Disputes Act. The workman has categorically asserted that neither course was followed. The management has not come out with a case that any domestic enquiry had been held and pursuant to such an enquiry, the services were terminated. Nor, it has pleaded that provisions of Section 25-F of the Industrial Disputes Act had been complied with. Thus, there is neither pleading nor proof on the side of the management on this aspect of the case and there is no alternative but to accept the contention of the workman that neither of the two courses open to the management were resorted to.

The workman has placed on record Ex. W-1 dated 19-4-86 which inter alia reads :

'However, this company has decided to suspend you from your service from 17-4-86 and your service are to be discontinue from 17-4-86. Please note accordingly.'

A xerox copy of this document has also been filed by the management thus the genuineness of this document is not in question and it shows convincingly and conclusively that the management gave a summary marching order to the workman without resorting to any domestic enquiry and without complying with the provisions of Section 25-F of the I.D. Act. I hold accordingly and find that termination of the services of the workman was illegal, improper and unjust.

16. Now, I may consider the contention of the employer that the workman left the job for better prospects. Perhaps, the management intended to convey that there was a voluntary abandonment of the job. In my opinion, the workman had no alternative but to find another job to earn his livelihood, when he had been summarily discontinued from the service by the employer. He was lucky that he got a job with higher salary. This must have been in view of his rich experience over the years. But, the workman has made it clear that the new job that he got was temporary and he served the new master from 1-5-86 to 1-3-88 at a salary of Rs. 2000 p.m. The workman has candidly admitted in his affidavit that thereafter he joined another firm again at a salary of Rs. 2000 p.m. for the period 2-3-88 to 14-12-91. After this, the workman got only a part time assignment @ 800 p.m. and lasted till November, 1993.

From the circumstances placed by the workman in his affidavit, it is difficult to come to a conclusion that the workman voluntarily abandoned his permanent job with 15 years standing, for jobs which were merely temporary and ephemeral.

17. In the aforesaid premises, I find that the removal of the workman is void ab initio: he entitled to be reinstated with continuity of service and back wages. However, the employer in paying back wages may deduct the emoluments which the workman received from his new employers, mentioned in his affidavit dated 6-6-96. The workman shall be entitled to all his dues with interest @ 12% p.a. The award is made accordingly.

R. S. VERMA, Presiding Officer

नई दिल्ली, 28 जून, 1996

का.आ. 2229.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार माइल्स के प्रबंधसत्त्व के संबंध नियोजकों और उनके कर्मकारों के बीच, अन्वेषण में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 25-6-96 को प्राप्त हुआ था।

[संख्या एस-29011/39/93-आई भार (एम)]
पी. जे. माईकल, डैस्ट्रिक्ट अधिकारी

New Delhi, the 28th June, 1996

S.O. 2229.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Mines and their workman, which was received by the Central Government on 25-6-1996.

[No. L-29011/39/93-IR (M)]
P. J. MICHEAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(173)/1994

BETWEEN

The Central Secretary Metal Mines Workers Union, Or.
No. 3 B Street No. 1, Sector I, Bhilai (MP).

AND

The Manager, (Mines), Hirri Dolomite Mines Hirri Mines,
Distt. Bilaspur (MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy

APPEARANCES :

For Workman—Shri R. L. Yadav.

For Management—Shri Ravi Shankar.

INDUSTRY : Dolomite Mines DISTRICT : Durg (MP)

AWARD

Dated, the 10th May, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-29011/39/93-IR (Vividh) dated 26-9-94 for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the demand of Metal Mines Workers Union for regularisation of piece rated Driller and Daily rated Driver (as per the names in Annexure) is justified ? If so to what relief the same entitled to ?"

DRILLING WORK

1. Shri Bhagwani	19-3-87
2. Shri Pheku	3-8-88
3. Shri Ram Singh	4-3-86
4. Shri Daya Ram	20-8-88
5. Shri Rameshwar	28-8-87
6. Shri Ninth Ram	17-8-88
7. Shri Khelu Ram	28-9-87
8. Shri Kejha	26-9-87

DRIVING WORK

1. Sri Johit Ram	30-6-87
2. Sri Jai Mangal	16-8-88

2. Reference was received on 7-10-94 and the workman has not filed the statement of claim inspite of the repeated adjournments taken by the workman. However, the settlement was filed by the management on 15-3-96. The settlement is duly verified by the officer of the management and the Union and the workman. Following are the terms of settlement :—

TERMS OF SETTLEMENT

1. The above piece rated workmen along with others shall be considered for regularisation subject to their fulfilment of selection conditions and medical fitness etc.
2. Accordingly Sl. Nos. 3 to 6 have already been issued appointment letter in regular grade on 4-11-95 and they have joined on 7-11-95.

3. Sl. Nos. 7 to 10 have been declared medically unfit for regular post. Sl. Nos 1 and 2 have been referred to Medicai Board and their fitness/unfitness report is awaited.

4. The Union and the management shall file this Joint Application before the Central Government Industrial Tribunal Jabalpur for obtaining award in terms of this settlement.

3. The names mentioned in the terms of settlement are given as under :—

1. Bhagwani
2. Daya Ram
3. Feku
4. Rameshwar
5. Johit Ram
6. Jain Mangal
7. Ram Singh
8. Khelu Ram
9. Minthram
10. Kejha

4. Consequently, award is passed in terms of the Settlement. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली 28 जून 1996

का.आ.. 2230—आंदोलिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मिनरल डिव्हेलपमेंट कॉ. लि. के प्रबन्धनन के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आंदोलिक विवाद में केन्द्रीय सरकार आंदोलिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25/6/96 को प्राप्त हुआ था।

[संख्या एल-29011/30/95-आई आर (एम)]

पी. जे. माईकल, डैस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2230.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Mineral Development Corporation Limited, and their workman, which was received by the Central Government on 25-6-1996.

[No. L-29011/30/95-IR (M)]

P. J. MICHEAL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, DEOKI PALACE ROAD, PANDU NAGAR, KANPUR

Industrial Dispute No. 19 of 1996

Managing Director

U.P. State Mineral Development Corpn.,
Pragti Kendra, 2nd Floor,
Kapurthla Commercial Complex
Aliganj, Lucknow,

AND

Sachiv

Khan Jazd-e-Sangh, Dala
P.O. Dala Dutt Sonbhadra (U.P.)

AWARD

1. The Central Government, Ministry of Labour, New Delhi vide its Notification No. 29011/30/95-IR (Vividh) dated

7-2-96, has referred the following dispute for adjudication to this Tribunal :—

"Whether the action of the management of U.P. State Mineral Development Corporation Ltd., Kapurthala Commercial Complex Aliganj, Lucknow, in not extending the benefit of leave as per service rule and applicable prior to 30-3-85 the date of certification of their standing order to the 11th employees (as per list attached with Annexure I) of their Chopan Unit is justified ? If not what relief the workmen are entitled ?"

2. Inspite of repeated opportunities having been given to the concerned workman he neither filed any claim statement nor put in appearance in the Tribunal. It appears that he is not interested in the case.

3. Hence my answer to the reference is in the affirmative and against the concerned workman for want of proof. He is not entitled to any relief.

4. Reference is answered accordingly.

Dated : 30-5-1996

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 28 जून, 1996

का. प्रा. 2231—आधिकारिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में अरडेसर बी. करमेतजी एंड सन्स लि. के प्रबन्धतन्त्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्धिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण, बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25/6/96 को प्राप्त हुआ था।

[संख्या एल-31012/40/92-आईआर (एम)]

पी. जे. माईकल, डैस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2231.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bombay as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. Ardesher B. Cursetjee & Sons and their workman, which was received by the Central Government on 25-6-96.

[No. L-31012/40/92-IR(M)]

P. J. MICHEAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

Present :

Shri Justice R. S. Verma, Presiding Officer.

REFERENCE NO. CGIT-1/24 OF 1993

Parties :

Employers in relation to the management of M/s. ABC and Sons Pvt. Ltd., Bombay.

AND

Their workmen

Appearances :

For the Management : S/ Shri Talsania, Sr. Advocate and Kantharia, Advocate.

For the Workman : Workman present in person.

INDUSTRY : Clearing & Forwarding STATE : Maharashtra Mumbai, dated the 21st day of May, 1996

AWARD

Shri H. R. Wadia in person. Shri Talsania Sr. Advocate along with Shri Kantharia Advocate for management.

Heard both the sides. The appropriate Government has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of M/s. Ardesher B. Cursetjee & Sons Ltd. Bombay in retrenching from services of Sh. H. R. Wadia Custom Clerk, while retaining the Junior Custom Clerks viz. S/Shri. Adil Mistri, Pai, Geet and R. C. Gomej w.e.f. 1-9-90 is just, proper and legal ? If not, to what relief is the workman entitled ?"

3. The workman filed his written statement of claim on 27-8-93. Shorn of unnecessary details, the case of the workman is that he entered the service of the opposite party in the year 1957. He worked in the various departments of the company viz. Dubashi Khata, clearing and customs department. The company has a large number of employees, some of whom were appointed subsequent to the appointment of the workman.

4. He was retrenched w.e.f. 1-9-90 while retaining his juniors and thus the principle of last come, first go was not adhered to.

5. It was further alleged that the company had no separate department of customs and so called discontinuance of customs work was merely a device to get rid of the workman. The workman, upon such premises, prayed to the effect that his retrenchment be set aside and he be deemed to be in service w.e.f. 1-9-90 and be allowed back wages and also consequential benefits like continuity of service.

6. The management has opposed the claim. It was pleaded that the workman had been engaged in the Dubashi Department. Because of lack of work, the company closed its establishment in the Dubashi Department. Consequently, the services of its employees in the Dubashi Department had to be terminated. The workman was duly paid retrenchment compensation amounting to Rs. 48,169 notice pay Rs. 3,339.71 and Rs. 42,967.75 towards gratuity. The workman accepted these payments in full and final settlement of his claims.

7. It was pleaded that the other clerks named in the reference were not employed as customs clerk. Mr. Gidh (not Geet) was employed as Typist; Gomes was employed as Stenographer; Mr. Pai was working in Salary Section.

8. It was emphatically denied that the workman had worked in any other department of the company, than the Dubashi Department.

9. It was denied that the principle of last come, first go has been violated.

10. It may be stated that the workman did not file any rejoinder even though the company had specifically set up a case of closure of its Dubashi Department and consequent termination of the workman.

11. The workman filed his own affidavit in support of his case. He did not file any documentary evidence to support his claim.

12. The management has filed some documentary evidence in support of its case and has filed affidavit of one witness N. B. Jamnekar, who has been cross-examined on behalf of the workman.

13. The first question is whether workman has succeeded in establishing that he was engaged in the Customs Department of the company.

14. The management has filed the original letter of appointment dated 1-4-1965 which shows that the workman had been appointed to Dubashi Department. The workman has not placed any transfer order, transferring him from the Dubashi Department to customs department. His denial in his affidavit that he was not appointed to Dubashi Department is belied by his appointment letter. In his cross-examination, he has admitted "I was all alone in the Dubashi Department when I was retrenched". This admission clearly falsifies his case that

he was working in the customs department on the day of the termination of his services.

15. Now, the next question is whether the workmen mentioned in the reference were junior to him and were still retained. In his cross-examination, he has admitted :

"This is correct that Mr. Gidh was typist. This is correct that Mr. Pai was working on salary section. Mr. Gomes was Stenographer in the billing section. This is correct that the pay scales of all these persons were different from my pay scale."

16. Now, the question of juniority or seniority arises among persons in the same category. On the admission of Mr. Wadia, none of the workmen were in the pay scale in which he was functioning. Hence, there was no question of any one of these employees being junior to him. The principle of first come and last go would apply when persons in the same category, but appointed later than the retrenched employee, have been retained. Hence, I find that this grievance is also misplaced.

17. Now, the workman has not refuted the claim of the company that the Dubashi Department had been closed. Mr. Jamnekar has categorically stated that the company had to close its Dubashi Department due to lack of work.

18. Letter dated 27-8-1990 addressed to the workman and placed on record by the management corroborates this statement. Nothing has come in cross-examination of Mr. Jamnekar which may go to belie his statement.

19. Once a particular department of an industry is closed and that closure is an accomplished fact, then termination of service on ground of such closure can not be assailed. This is precisely the case before me.

20. The workman received the notice pay, retrenchment compensation and terminal benefit on 31st August, 1990. He accepted the gratuity also in full and final settlement of his claim without demur or protest. In such a case, he in law as well as in equity is not entitled to raise a grievance about the termination of his services.

21. Taking a conspectus of all the circumstances of the case, I find that termination of the services of the workman has not been shown to be unfair, improper and illegal. His claim fails with costs, which are assessed at Rs. 3000/- An award is made accordingly.

R. S. VERMA, Presiding Officer

नई दिल्ली, 28 जून, 1996

का.आ. 2232—औद्योगिक विवाद अधिनियम, 1947 (1947का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बम्बई पोर्ट इंस्ट के प्रबंधसत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25/6/96 को प्राप्त हुआ था।

[संख्या : एल-31012/32/92-ओइसार (एम)]

पी. जे. माईकल, डैक्ट अधिकारी

New Delhi, the 28th June, 1996

S.O. 2232.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bombay as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Bombay Port Trust and their workman, which was received by the Central Government on 25-6-96.

[No. L-31012/32/92-IR(M)]
P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

Present :

Shri Justice R. S. Verma, Presiding Officer
REFERENCE NO. CGIT-1/23 OF 1993

Parties :

Employers in relation to the management of Bombay Port Trust

AND

Their workmen.

Appearances :

For the Management : Shri M. B. Anchani, Advocate.

For the Workman : Shri Y. A. Tandel, Workman with Ms. Samanta, Advocate.

INDUSTRY : Port & Docks STATE : Maharashtra Mumbai, dated the 22nd of day of May, 1996

AWARD

Shri Y. A. Tandel workman with Ms. Samanta, Advocate
Shri M. B. Anchani Advocate for management.
Heard both the sides at length.

The appropriate Government has referred the following dispute for adjudication to this Tribunal :

"Whether the action of the Management of Bombay Port Trust, Bombay in demoting from the post of Naique to Peon and simultaneously to order for compulsory retirement of Shri Yashwant Anand Tandel, Peon w.e.f. 26-6-91 is just, legal and proper ? If not, to what relief is the workman entitled to ?"

2. The parties filed their respective pleadings and documentary evidence. The workman filed his affidavit in support of his claim. The management declined to cross examine him and did not lead any oral evidence. The workman at a subsequent stage amended his claim also but thereafter no fresh evidence was adduced.

3. The facts of the present case are not in dispute. Admittedly, the workman belonged to Mangala caste, which is neither SC nor ST. He passed his S.S.C. examination in 1973. He could not secure any job for quite some time. His poverty and penury induced him to obtain a false certificate in respect of his caste. When recruitment on the post of Hamal/Peon took place under the management, considering the fact that S.S.C. passed candidate may not be eligible for appointment, he wrongly concealed the fact of his having passed the S.S.C. examination and stated in his application for recruitment that he was "9th passed".

4. Relying upon the caste certificate and the statement about "9th passed" the management appointed him to the post of Hamal/Peon by appointment letter dated 10-3-78.

5. The workman was on probation. He completed his period of probation and was eventually promoted on an officiating basis to the post of Naique on 1-3-83. This post was reserved for SC/ST category.

6. The fact that the workman did not belong to SC/ST category and the promotional post of Naique had to be filled from the said category alone came to the notice of the management and the Chief Law Officer vide order dated 26-5-1988 ordered reversion of the workman to his original post.

7. The workman on his reversion to the original post continued to work for some time.

8. Later on a charge sheet dated 11-5-1990 was served upon him for the following misconducts viz.

(1) That he had knowingly furnished false information of his belonging to a Scheduled Tribe in order to get an appointment to a post of Hamal/Peon reserved for Scheduled Tribes in the legal departments and had thus exhibited lack of absolute integrity;

(2) That he had falsely stated in his application dated 28-2-78 that he had passed standard IX although he

had passed SSC examination in 1973 and had thus exhibited lack of absolute integrity and devotion."

9. A domestic enquiry was held into the charges. The charges were found established. The Disciplinary authority, concurring with the findings of the Enquiry Officer issued show cause notice to the workman as to why penalty of dismissal be not passed. The workman submitted his representation dated 7-1-91. The Disciplinary Authority considered the same and instead of dismissing the workman, passed an order compulsorily retiring the workman. An industrial dispute was raised and eventually the dispute came to be referred as stated above.

10. At the outset, I may state that the reference is based on totally wrong previses and assumptions. It speaks of 'simultaneous' reversion and compulsory retirement. Actually reversion order was passed much earlier i.e., on 26-5-88. The order of compulsory retirement was a later event viz. 25-6-91.

11. However, this fact need not detail me. The first contention of Ms Samant is that the management could not have punished the workman for a misconduct committed prior to his appointment. This contention is clearly not tenable in view of Rule 9 of Bombay Port Trust Employees (Classification, Control and Appeal) Regulations, 1976 which reads as follows :

"9. Penalty for misconduct committed prior to recruitment. The penalties specified in regulation 8 may, for good and sufficient reason, as hereinafter provided, be imposed on an employee, appointed through direct recruitment in respect of misconduct before his employment, if the misconduct was of such a nature as has rational connection with his present employment and render him unfit or unsuitable for continuing in service."

12. In the present case, the misconduct is of a very grave nature. By making false representations, he secured a job which was finally reserved for S.T. Category and to which he was not entitled to be appointed and secondly he was admittedly not eligible for the post on account of his true qualifications.

13. This takes me to the next contention of Ms. Samant that it was a case of double jeopardy and the workman was punished twice for the same misconducts. The argument is based on a total misconception of the nature of order of reversion. It was passed on the ground that he was not eligible to be promoted to the post of Naik, the same having been reserved for ST category. It was a order of reversion simplicitor on the ground that the workman was not entitled to hold the promotional post.

14. The second limb of this contention is that the management condoned the misconducts of the workman by mentioning in the order of reversion that "he would be eligible for promotion on the basis of general seniority in the department." To my mind, this statement cannot be construed as a condonation of the misconduct of the workman. Actually, till then no departmental enquiry had been conducted against the workman.

15. Since the order of reversion was not passed as a measure of punishment the management was entitled to take suitable action against the workman and the order of reversion did not exhaust the power to take disciplinary action against the workman, which was an independent power, flowing from a proper enquiry.

16. The next contention of Ms. Samant is that management took a lot of time in initiating action against the workman. True, there has been undue delay in taking the disciplinary action but neither in law, nor in equity, the management was precluded from taking action in a case, which was quite glaring in nature.

17. Ms. Samant relied upon AIR 1925 Calcutta 87 L. W. Middleton Vs. Harry Playfair in support of the propositions that a master, even on discovery of misconduct, elects to continue the employee, it can not subsequently take action against the employee. This precedent pertained to a suit for recovery of damages for breach of contract of service and arrears of salary. The present case is governed by specific regulations enabling the management to take action. In the

Calcutta precedent, there is nothing to show that the conduct and power to take action against the employee were governed by any regulation. Basically, the said precedent arose out of a suit for damages for breach of contract and does not offer any guidance in the present matter.

18. AIR 1967 M. P. 284 Lal Andhraj Singh Vs. State of M.P. is an authority for the proposition that if after the knowledge of misconduct, an employee is promoted, he can not be punished subsequently. It was held that in that case by promoting the employee, the misconduct had been condoned. That was a case of misconduct due to negligent action of the employee and was not a case where the employee could not have been appointed to and retained in service due to fraudulent concealments and misrepresentations. In my opinion, the M. P. authority does not help the workman at all.

19. AIR 1941 Nagpur 125 District Council Aincraoti Vs. Vilhal Vinayak Bapat followed the Calcutta case and made a general observation that once a master has condoned the misconduct of the employee, it can not later on dismiss or remove him.

20. Again that was a suit in respect of arrears of salary. It was a case where the employee had abused his superiors. It was not a case where for lack of eligibility, the employee was not entitled to be continued on the post, to which he was appointed. This case also, thus, does not help the workman.

21. Reliance was placed upon 1985 I LLN. 124 Akai Tandon for the proposition that there can not be double punishment for the same misconduct. The principle is unexceptionable but I have already demonstrated that present case is not one of double punishment at all.

22. I.L.I. 1969 5—Ishwar Pratap Gaumal deals with a case where a college was empowered to cancel an admission obtained fraudulently but did not do so and rather expelled the candidate without cancelling his admission. To my mind, this precedent does not help the workman in any manner.

23. Lastly Ms. Samant contended that this Tribunal must exercise its powers u/s 11A of the I.D. Act and must take a lenient view in the matter. Reliance has been placed in the connection upon 1989 SCC (L&S) 180 Scooters India Ltd. In my opinion, the management has already taken a lenient view in the matter and instead of dismissing him, has only retired him. He has not been prosecuted for his misdeed. It was a grave misconduct on his part to claim falsely and fraudulently that he belonged to S.T. when he did not belong to that category. He, thus, deprived some other rightful claimant to get the job. He has earned rich dividends out of his misconduct and had remained in job for quite a long period, earning increments etc.

24. The workman is only 40 years of age. He can turn a new leaf in his life. In my opinion, no more leniency can be shown to him.

25. Accordingly, I reject the claim and hold that compulsory retirement of the workman is just, proper and legal. An award is made accordingly. In the circumstances of the case, parties to bear their own costs.

R. S. VERMA. Presiding Officer

नई दिल्ली, 28 जून, 1996

का.आ. 2233.—आंशोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में, अब्दुल करीम कन्ट्रैक्टर के प्रबंधनकाल के संबंध नियोजकों और उनके कर्मकारों के बीच, अन्यथा में निर्दिष्ट आंशोगिक विवाद में आंशोगिक अधिकरण, कोटा के पंचपट को प्रकाशित करनी है, जो केन्द्रीय सरकार को 25/6/96 को प्राप्त हुआ था।

[गंभीरा एल-29012/12/90-आड.आर. (प्रम.)]

पी. जे. माईकल, डैस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2233. -In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Kota as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Abdul Kareem Stone Contractor and their workman, which was received by the Central Government on 25-6-96.

[No. L-29012/12/90-JR(M)]
P. J. MICHAEL, Desk Officer

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण (केन्द्रीय) कोटा (राज.)

निदेश प्रकरण क्रमांक : ओ. न्या. (केन्द्रीय)-9/90

दिनांक स्थापित : 23-5-90

प्रसंग : भारत मरकार, अम मंत्रालय, नई दिल्ली के आदेश
संख्या प.ल-29012/12/90 दिनांक 21-3-90

औद्योगिक विवाद अधिनियम, 1947

मध्य

कृपाशंकर पुत्र मोहनलाल ढारा हिन्द मजदूर सभा,
बंगाली कालोनी, छावनी कोटा

—प्रार्थी श्रमिक

पांच

मे. अब्दुल करीम भाई, स्टोन कार्ट्रेक्टर, पो. मोड़क,
जिला कोटा

---प्रतिपक्षी नियोजक

उपस्थित

श्री आर.के. चावांन, आर. एच. जे. एम.,
प्रार्थी श्रमिक की ओर से प्रतिनिधि : श्री एन. के. तिवारी
प्रतिपक्षी नियोजक की ओर से : श्री जमील अहमद

अधिनियम : दिनांक 9-5-96

अधिनियम

भारत मरकार, अम मंत्रालय, नई दिल्ली ढारा निम्न
निदेश औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त
“अधिनियम” से सम्बोधित किया जावेगा) की धारा 10
(1) (घ) व उपधारा (2-क) के अन्तर्गत इस न्यायाधि-
करण को अधिनिर्णयार्थ स्थेपित किया गया है :-

“Whether the action of M/s. Abdul Kareem, Stone Contractor in terminating the services of Shri Kripa Shanker S/o Shri Mohan Lal, Electrician w.e.f. 18-4-89 is justified. If not, what relief is the workman entitled to?”

2. निदेश न्यायाधिकरण से प्राप्त होने पर दर्ज रजिस्टर
किया गया व पक्षकारों को सूचना जारी की गयी। प्रार्थी
श्रमिक के क्लेम स्टेटमेंट के अनुसार संक्षेप में तथ्य हम प्रकार
है कि प्रार्थी कृपाशंकर का मे. अब्दुल करीम स्टोन कार्ट्रेक्टर
कूकड़ा लाईम स्टोन, माईन्स, मोड़क जिला कोटा (जिसे
तदुपरान्त “प्रतिपक्षी नियोजक” से सम्बोधित किया जावेगा)
द्वारा दि. 22-6-86 में कूकड़ा लाईम स्टोन माईन्स पर

उपस्थितियन के पद पर नियोजित किया गया था। प्रार्थी
को प्रतिपक्षी नियोजक ने दि. 7-8-88 में बिना कोई कारण
बताये बिना किसी पूर्व सूचना के अवैध प्रकार में नौकरी
में निकाल दिया जिसका विवाद प्रार्थी ने सहायक श्रमायुक्त
(केन्द्रीय) कोटा को प्रस्तुत किया जिस विवाद में नियोजक
ने दि. 26-10-88 को उपस्थित होकर प्रार्थी को नौकरी
पर लेने के सम्बन्ध में समझौता कर दिया। इस समझौते
के अनुसार प्रार्थी को 15 दिन के अन्दर प्रतिपक्षी नियोजक
के यहां इयटी पर उपस्थित होना था तथा एक माह का
बेतन बीच की अवधि का मुआवजे के रूप में देना तय हुआ
था तथा शेष समय के लिए यह तय हुआ था कि शेष अवधि
में कर्मचारी को छाटटी दे दी जावेगी यदि उसकी इटिट्यां
गेष होंगी। समझौते की पालनार्थ प्रार्थी 5-11-88 को प्रति-
पक्षी के यहां उपस्थित हुआ और रिपोर्ट दो जिसे ले निया
परन्तु इसी प्रति पर प्राप्त रसीद देने से मना कर दिया
व प्रार्थी को इयटी पर लेने से मना कर दिया। इसके पश्चात
प्रार्थी ने 7-11-88 को पुनः इयटी रिपोर्ट प्रतिपक्षी नियोजक
के यहां प्रस्तुत की जिसे लेने से मना कर दिया। प्रार्थी ने
रजिस्टर्ड डाक से उपस्थित रिपोर्ट प्रेपित कर दी। दि.
8-11-88 को प्रार्थी प्रतिपक्षी के यहां गया तो कोई काम
नहीं बतलाया गया और बैठ जाने को कहा। दि. 7-1-89
को प्रार्थी से कहा कि तुम्हें नौकरी पर नहीं लिया है तुम
रोजाना ऐसे ही आकर बैठ रहे हो। प्रार्थी ने बीच-बीच में
बेतन की मांग की तो बेतन का भुगतान नहीं किया। इसके
पश्चात् प्रार्थी ने सहायक श्रमायुक्त (केन्द्रीय) कोटा के समक्ष
पुनः शिकायत प्रस्तुत की। दि. 3-4-89 को प्रतिपक्षी
नियोजक ने समझौता कर प्रार्थी को इयटी पर लेना स्वीकार
किया तो सहायक श्रमायुक्त (केन्द्रीय) ने प्रार्थी के प्रतिनिधि
एन.के. तिवारी को निदेश दिया कि वे स्वयं प्रार्थी को इयटी
स्थल पर जाकर नियोजक के यहां प्रस्तुत करे जिसकी
पालनार्थ दिनांक 17-4-89 को प्रार्थी अपने प्रतिनिधि के
साथ इयटी पर उपस्थित हुआ और उपस्थित होने की रिपोर्ट
प्रस्तुत की तो नियोजक ने उपस्थित रिपोर्ट ले ली और उसे
18-4-89 से विधिवत काम पर लगा दिया। तदुपरान्त
प्रार्थी द्वारा 5-11-89 को समझौते की पालनार्थ इयटी पर
उपस्थित होने की तिथि से दि. 31-1-89 तक का बेतन
रुपये 6,431-18 पै. की राशि दिलाने हेतु धारा 33-सी
(2) के अन्तर्गत प्रार्थीना पत्र न्यायालय में पेश किया जिसकी
सूचना प्रतिपक्षी को भेजी गयी तो प्रतिपक्षी नियोजक ने
प्रार्थी की बुलाकर प्रार्थीना पत्र आपस लेने को कहा व जब
प्रार्थी रो मना कर दिया तो प्रार्थी को कहा कि नौकरी पर
मत आना। दि. 4-5-89 को प्रार्थी इयटी पर गया तो नहीं
लिया व कहा कि केम कर दो। प्रार्थी ने रजिस्टर्ड ए.डी.
पक से भी प्रतिरक्षी नियोजक को इयटी पर लेने के लिए
सूचित किया परन्तु उसे इयटी पर नहीं लिया गया। उस
प्रकार प्रार्थी ने प्रतिपक्षी के यहां 22-6-86 से 3-5-89
तक निरन्तर कार्य किया परन्तु उसे प्रतिपक्षी नियोजक ने
नौकरी से हटाने से पूर्व अधिनियम की धारा 25-एफ के
प्रावधानानुसार एक माह का नौटिस नहीं दिया व न ही

इसके बावजूद एक माह का अग्रिम वेतन दिया वन ही छंटनी का मुआवजा दिया अथवा प्रस्तावित किया। प्रतिपक्षी नियोजक ने प्रार्थी को नौकरी से निकालने के बाद नये श्रमिक नियोजित कर लिये हैं जबकि प्रार्थी को पुनः नियोजन हेतु नहीं बुलाया गया और इस प्रकार धारा 25-एच का उल्लंघन किया गया है। अन्त में प्रार्थना की गयी है कि उसके पिछले सम्पूर्ण वेतन व सेवा के समस्त लाभों महित पुनः सेवा में लिये जाने का आदेश दिया जावे।

3. प्रतिपक्षी की ओर से प्रार्थी को दि. 22-6-86 में कूकड़ा लाईस स्टोन माईन पर इलेक्ट्रिशियन के पद पर नियोजित करना स्वीकार किया गया है परन्तु यह कहा गया है कि उन्होंने प्रार्थी को कभी भी नौकरी से नहीं निकाला बल्कि उसने स्वयं काम पर आना बन्द किया है। प्रतिपक्षी ने प्रार्थी को कभी नौकरी पर लेने से इन्कार नहीं किया वन ही कभी प्रार्थी ने उपस्थिति रिपोर्ट प्रस्तुत की, अतः प्रार्थी का क्लेम खारिज किया जावे।

4. प्रार्थी कृपाशंकर ने अपने क्लेम की ताईद में साथ्य में स्वयं का शपथ-पत्र प्रस्तुत किया है जिसमें प्रतिरक्षी नियोजक की ओर से जिरह की गयी है जबकि प्रतिपक्षी नियोजक की ओर से ताराचन्द वंसन व शकी मोहम्मद के शपथ-पत्र प्रस्तुत किये गये हैं जिनमें श्रमिक प्रतिनिधि ने जिरह की है। बहम पक्षकारों की मुझी गयी व पत्रावली का अधिकारन किया गया है, अतः प्रार्थी कोई राहत प्राप्त करने का अधिकारी नहीं है।

5. प्रतिपक्षी नियोजक के विवाद प्रतिनिधि ने यह बहम की है कि प्रार्थी को दि. 26-10-88 के समझौते के अनुसार 15 दिन में प्रतिपक्षी के यहां नौकरी पर उपस्थित होना था परन्तु वह उपस्थित नहीं हुआ। श्रमिक ने प्रतिपक्षी नियोजक के यहां उपस्थिति प्रार्थना-पत्र प्रस्तुत करना बतलाया है जबकि ऐसा कोई प्रार्थना-पत्र न्यायालय में पेश नहीं किया गया है, अतः प्रार्थी कोई राहत प्राप्त करने का अधिकारी नहीं है।

6. प्रार्थी श्रमिक की ओर से विवाद प्रतिनिधि ने यह बहस की है कि प्रार्थी कृपाशंकर का यह नियोजन विवाद दि. 18-4-89 से प्रतिपक्षी द्वारा प्रार्थी को नौकरी से निकालने का है। प्रार्थी ने सहायक शमायूक्त (केन्द्रीय) के समझौते प्रदर्श डब्ल्यू. 3 के अनुसार दि. 17-4-89 को प्रतिपक्षी के यहां ड्यूटी पर उपस्थित होकर लिखित रिपोर्ट पेश की जिसकी फोटोप्रति प्रदर्श डब्ल्यू. 4 है। प्रतिपक्षी ने इस पर ड्यूटी पर लेने हेतु लिख दिया जो ए से बी है तथा इस पर माईन्स मैनेजर नन्दलाल के हस्ताक्षर सी से डी है। चूंकि प्रार्थी ने प्रतिपक्षी के विरुद्ध समझौता दि. 26-10-88 के अनुसार एक प्रार्थना-पत्र धारा 33-भी (2) अधिनियम के तहत न्यायालय में प्रस्तुत कर दिया इसलिए प्रतिपक्षी ने प्रार्थी को 4-5-89 से ड्यूटी पर नहीं लिया। इस तथ्य को प्रतिपक्षी के गवाह ने ही अपने बयान में स्वीकार किया है, अतः प्रार्थी पिछले सम्पूर्ण वेतन सहित पुनः नौकरी प्राप्त करने का अधिकारी है।

7. प्रार्थी श्रमिक कृपाशंकर ने अपने शपथ-पत्र में कहा है कि समझौता प्रदर्श डब्ल्यू. 3 के अनुसार प्रार्थी श्रमिक प्रतिनिधि श्री एन.के. तिवारी व पुण्योत्तम दाधीच के साथ दि. 17-4-89 को ड्यूटी पर उपस्थित हुआ व लिखित में रिपोर्ट प्रस्तुत की जिसकी फोटोप्रति प्रदर्श डब्ल्यू. 4 है, इस पर प्रतिपक्षी ने ड्यूटी पर लेने हेतु लिख दिया जो ए से बी है तथा माईन्स मैनेजर के हस्ताक्षर सी से डी है। प्रार्थी ने प्रतिपक्षी के विरुद्ध धारा 33-भी (2) अधिनियम का प्रायना पत्र दि. 26-10-88 के समझौते के अनुसार न्यायालय में पेश किया एवं प्रतिपक्षी नियोजक पर जब नोटिस की तभीत हुई तो उसे प्रार्थना पत्र बापस लेने को कहा व मना करने पर ड्यूटी पर लेने से इन्कार कर दिया। प्रार्थी को नौकरी से निकालने से पूर्व कोई नोटिस अथवा नोटिस वेतन व छंटनी का मुआवजा नहीं दिया।

8. प्रतिपक्षी के गवाह ताराचन्द वंसन ने जिरह में कहा है कि प्रार्थी की नियुक्ति इस गर्व पर की गयी थी कि प्रार्थी इलेक्ट्रिशियन का प्रमाण-पत्र प्रस्तुत कर देगा। प्रार्थी ने दो वर्ष तक इलेक्ट्रिशियन का प्रमाण-पत्र पेश नहीं किया इसके बावजूद भी उसे नौकरी से नहीं हटाया गया। दि. 31-8-88 को केन्द्रीय श्रम आयुक्त सहायक के यहां प्रार्थी ने शिकायत की थी, प्रबन्धकों की ओर से मुनीम नंदलाल जी ने इलेक्ट्रिशियन प्रमाण-पत्र प्रार्थी को पेश करने को कहा था, परन्तु समझौता अधिकारी के समझौता रिपोर्ट प्रदर्श डब्ल्यू. 2 में इलेक्ट्रिशियन प्रमाण-पत्र का कोई उल्लेख नहीं है, इसका मुझे कोई पता नहीं। सहायक शमायूक्त के यहां प्रमाण-पत्र का भुदा उठाया गया था। दि. 17-4-89 को प्रार्थी ने हमारे कार्यालय में प्रदर्श डब्ल्यू. 4 पेश किया हूं तो मुझे पता नहीं। प्रतिपक्षी का व्यापारिक कार्यालय भोड़क स्टेशन पर है। प्रदर्श डब्ल्यू. 4 पर नन्दलाल के हस्ताक्षर ए से बी हैं। दि. 18-4-89 को प्रार्थी को ड्यूटी पर मेरे पास नहीं आया। हमने प्रार्थी को प्रमाण-पत्र के अभाव में नौकरी पर लेने से मना कर दिया था। प्रदर्श डब्ल्यू. 7 पर स्टेशन भोड़क के स्टाप के हस्ताक्षर हो तो पता नहीं। प्रार्थी को प्रमाण-पत्र पेश करने को लिखा हो तो ध्यान नहीं, जबानी कहा था। प्रदर्श डब्ल्यू. 8 पर ए से बी हस्ताक्षर मेरे हैं। हमने प्रार्थी को प्रमाण-पत्र के लिए लिखित में भलमनसाहृत के कारण नहीं दिया। प्रार्थी को इलेक्ट्रिशियन का प्रमाण-पत्र नहीं पेश करने पर उसे नौकरी से हटाने के सम्बन्ध में लिखित में पत्र नहीं दिया।

9. प्रतिपक्षी नियोजक के दूसरे गवाह शकी मोहम्मद ने जिरह में कहा है कि दि. 26-10-88 को 15 दिन के अन्वर खान पर इलेक्ट्रिशियन का प्रमाण-पत्र पेश करने व ड्यूटी पर आने की बात हुई हो तो मुझे पता नहीं। प्रमाण-पत्र नवीनीकरण के लिए भेजा या नहीं व वह प्रमाण-पत्र वर्ष 91 में नवीनीकृत हुआ हो तो मुझे पता नहीं। प्रदर्श डब्ल्यू. 2 पर नन्दलाल के हस्ताक्षर ए से बी हैं। एक माह का वेतन 949/-रुपये दि. 20-4-89 को मुआवजे की रकम

के रूप में दिया था। पैसे देने के कागज भैनेजर वो पता है, बहील सा. ने ऐसे किये होंगे। प्रदर्शी उच्चल्य्. 4 पर ८ में वो हस्ताक्षर तागचब्द वेसल के हैं, इस पर 18-४-८९ को इव्हट पर लिया गया, लिखा हुआ है। ऐसे सामने 18-४-८९ के बाद श्रमिक ने कोई डक्टी नहीं की। मान्इस भैनेजर ने ऐसे को श्रमिक की डक्टी पर लेने की बात नहीं बतायी। प्रदर्शी उच्चल्य्. 7 पर हमारा पता मही लिखा हुआ है।

10. इस प्रकार प्रार्थी ने प्रतिपक्षी के घर्हों 18-४-८९ को समझौते के अनुमान अनन्त उपस्थिति पत्र पेश कर दिया था जिस पर प्रार्थी को नौकरी पर लेने के आदेश हुए, उसके बाबजूद भी प्रार्थी को नौकरी पर नहीं लिया गया व न ही उसे नोटिस अथवा नोटिस वेतन व डंडनी का मुआवजा दिया गया।

11. प्रतिपक्षी की ओर से जो गवाहान के अपथ पत्र प्रस्तुत हुए हैं उनमें प्रार्थी को नौकरी पर नहीं लेने का कारण प्रार्थी द्वारा इलेक्ट्रिशियन प्रमाण-पत्र पेश नहीं करना बताया गया है परन्तु उसका जिस प्रतिपक्षी की ओर से अपने जवाब अथवा समझौता अधिकारी के यहाँ नहीं बताया गया। साध्य के प्रत्रम पर प्रतिपक्षी के गवाहान का यह कहना कि प्रमाण-पत्र के अभाव में प्रार्थी को नहीं लिया गया, कोई ठोक आधार नहीं है जबकि स्वीकृत स्लॉ में प्रार्थी को प्रमाण-पत्र पेश करने हेतु कोई नोटिस भी नहीं दिया गया, ऐसी सुरक्षा में प्रार्थी को दि. 18-४-८९ को नौकरी से निकालना उचित एवं ईश्वर माने जाने योग्य नहीं है। कलस्वरूप प्रार्थी पिछले मम्पूर्ण वेतन व सेवा की निरन्तरता महिने पुनः सेवा में लिये जाने का अधिकारी योग्यता हीने योग्य है।

12. उपरोक्त मम्पूर्ण विवेचन के आधार पर भारत सरकार, अम मंड़ाल्य, नई दिल्ली द्वारा मम्प्रेपित निर्देश को इस प्रकार उत्तरित किया जाता है कि प्रतिपक्षी में अब्दुल करीम भाई, रटोन कॉर्टेक्टर, पा. भोइक जिन कोटा द्वारा श्रमिक कृपाशंकर को दि. 18-४-८९ में सेवा से निकालना उचित एवं वैध नहीं है, कलस्वरूप प्रार्थी पिछले मम्पूर्ण वेतन व सेवा की निरन्तरता महिने पुनः सेवा में लिये जाने का अधिकारी योग्यता हीने योग्य है।

इस अधिनियम को सम्बन्धित सरकार को नियमानुसार प्रकाशनार्थ भिजवाया जावे।

आर.के. चाचान, व्यायाधीश

नंद दिवारी, 28 जून, 1996

का.आ. 2234 :- अर्डोभिल विवाद अधिनियम, 1947 (1947 का 14) की द्वारा 17 के अनुसरण में, केन्द्रीय सरकार नोट ट्रस्ट के प्रबन्धतंत्र के अंतर्द्द नियोजकों और उनके कर्मनारों के बीच, अनुबन्ध में निर्दिष्ट और्ध्वांगिक विवाद में दार्दीयक प्रधिकरण, विश्वासान्तम के पचास 1710 GE/96-8

को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-६-९६ को प्राप्त हुआ था।

[मंज्या एन-34012/1/89-प्राई आर (एम)]

पी.जे. माइकल, ईस्क अधिकारी

New Delhi, the 28th June, 1996

S.O. 2234.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Visakhapatnam as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Port Trust and their workmen, which was received by the Central Government on 26-6-96.

[No. L-3-4012/1/89-IR(M)]

P. J. MICHAEL, Desk Officer

ANNEXURE

IN THE COURT OF INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, VISAKHAPATNAM

Present :

Smt. G. Jaishree, B.Sc., LL.M., Chairman & Presiding Officer.

Saturday, the 1st day of June, 1996
I.T.I.D. No. 2/89 (C)

BETWEEN

The President,
Visakhapatnam Harbour and
Port Workers Union,
Port Area,
Visakhapatnam.

... Workman.

AND

The Board of Trustees of the Port
of Visakhapatnam,
Visakhapatnam

... Management

This dispute coming on for final hearing before me in the presence of Sri S. Ranachandra Rao, advocate for workman and Sri D. V. Subba Rao, advocate for management upon hearing the arguments of both sides the court passed the following :

AWARD

(1) In this case Government of India referred dispute to this tribunal for settlement under clause (d) of Sub-Section (1) and sub-section 2A of Section 10 of Industrial Disputes Act, which exists between the management of Visakhapatnam Port Trust Visakhapatnam and their workmen. The reference is in the following terms :

'Whether the action of the management of Visakhapatnam Port Trust in reverting Sri Kolati Venkata Rao from the post of Asstt. Shipwright Foreman to that of Charge hand is justified? If not what relief is the said workman entitled to?'

(2) In the claim statement it is stated that there is a post of Asstt. Foreman in Dry Dock Section on Mechanical Department in Visakhapatnam Port Trust who is designed as Asstt. Shipwright Foreman. From the beginning, the personnel experienced in Shipwright/Carpentry only were considered for the post since the employees of other trades in the Dry dock section i.e., Caulker and Painting are not conversant with the job. But suddenly in November, 1983, Sri K. Venkata Rao who was promoted as Asstt. Shipwright Foreman from charge hand Carpentry was reverted and the charge-hand of Caulker Trade was promoted in his place. It is stated that B. V. Ramana, charge hand (Caulker) was given promotion as Asstt. Foreman (U.P.) on stagnation basis duly obtaining an undertaking that he would perform the duty as chargehand (caulker) but not as ASWF. There is no provision in the recruitment rules for regularising the services of Asstt. Foreman (U/G) in the regular basis of ASWF. As per the practice in Vegue, the Chief Mechanical Engineer promoted

The Senior most chargehand (carpenter) of Drydock section (Viz., Sri Kulati Venkata Rao) as ASWF. After his getting an annual increment in the promotional post of ASWF, he has been reverted to his former post, promoting Sri B. V. Ramana the chargehand of Caulker trade in his place, subsequently in November, 1987. Ultimately, it is prayed that direction may be given to consider the charge hands of carpentry section alone in the post of Asstt. Shipwright Foreman and to promote Sri K. Venkata Rao of Carpentry Section as Asstt. Shipwright Foreman as per the practice in vogue, putting aside the reversion orders with retrospective effect.

(3) In the counter, this petition is opposed by the management. It is stated in the counter that prior to 1983, only carpentry charge hands were considered for promotion to the post of Asstt. Shipwright Foreman. But in 1983 in the joint meeting of the management and the recognised 3 unions of workmen, the promotional opportunities were reviewed and it was decided to consider the employees who got 8 years of more than 8 years service as on 1-11-83, for promotion to the next higher post under the up-gradation scheme. Accordingly, in Dry Dock section of Mechanical department, B. V. Ramana chargehand (caulker) and K. Sattirajuly, chargehand (Painter) who got more than 8 years service as on 1-11-83 were promoted as Asstt. Foreman (U/G) and the senior most of them was considered in the regular post of Asstt. Shipwright Foreman. It is pleaded that under the relevant recruitment rules, the post of ASWF is to be filled by promoting charge hand of the section without reference to any particular trade in the section and if no charge hand is available in the section, then by direct recruitment. It is further pleaded that Mr. K. V. Rao, was promoted as ASWF on adhoc basis on 11-3-86 and reverted on 21-4-86 and was again promoted on 4-10-86 and again reverted in pursuance of management administrative decision taken on 15-10-87 to promote the senior most Asstt. Shipwright Foreman (up-graded) to the post of ASWF. (Regular). Thus, it is pleaded that the reversion of K. Venkata Rao and promotion of B. V. Ramana who is the senior most ASWF (upgraded), in his place, is justified. And it is prayed that the petition may be dismissed.

(4) On behalf of the workman, he got himself examined as WW1 and got marked Exs. W1 to W5. On behalf of the management, its Senior Asstt is examined as MW1 and Exs. M1 to M4 are marked by consent.

(5) Heard arguments of both sides.

(6) The points that arise for consideration are :

(i) Whether the reversion of K. Venkata Rao from the post of Asstt. Shipwright Foreman to that of charge-hand is justified ?

(2) To what relief is the petitioner entitled ?

(7) Point No. 1 : The workman deposes as WW1 that he first joined in the Mechanical Department as Bellow Boy in the Port Trust in 1955 and subsequently promoted from time to time and ultimately as charge hand carpenter. There are 3 trades in Dry Dock section of Mechanical Department of the Port Trust i.e., Painting Caulker and Carpenter. The post of Asstt. Shipwright Foreman in this department is equal to the Asstt. Foreman in other departments. He states that for promotion to the post of Asstt. Shipwright Foreman a workman experienced as Carpenter is only eligible. In the years 1969, 1973 and 1980 only the carpenter chargehands were called for interview for the post of Asstt. Shipwright Foreman and selected. Though there were seniors to these persons in the other two trades i.e. Caulker and Painting, they are not called for interview. The petitioner was promoted to the post of Asstt. Shipwright Foreman on 4-10-86 under Ex. W1 and he also drew increment of Rs. 40/- in this promotion post but was reverted to the post of chargehand carpenter on 23-11-87 vide Ex. W2 and in his place of Mr. B. V. Ramana from Caulker trade was appointed. The petitioner challenges this reversion order in this petition.

(8) MW1 admits in his cross-examination that there are 3 trades in Dry Dock section i.e. Carpenter, Painter and Caulker. He further admits that earlier since inception, the promotion to the post of Asstt. Foreman was given only from carpentry trade, and at the time of this selections made in 1969, 1972 and 1980 there were seniors in other trades to the

charge hand carpenters who were selected in these selections, but they were not called for selection. Thus, it is evident that earlier only charge hands from carpentry trade were called for interview and selected to the promotion post of Asstt. Shipwright Foreman in Dry Dock section. Though MW1 denies suggestions that for working as Asstt. Foreman, chargehands for carpentry trade alone are competent, he does not give any reasons why the candidature for promotion to the post of Asstt. Shipwright Foreman was restricted to the charge hands of the section only for carpentry trade, ignoring the candidates from caulker and painting trade. The recruitment rules, extract of which is filed under Ex. M2, provide for promotion to this post from chargehand of the section failing which by direct recruitment. There is nothing to suggest in this recruitment rules that only chargehands of carpentry trade are to be promoted to this post. Thus, the procedure followed by the management in considering only charge hand carpenters for promotion to the post of Asstt. Shipwright Foreman is not supported and justified by the concerned recruitment rules. By following this procedure, the claims of the charge hand in the other two trades were ignored and defeated. Probably to rectify this defect and improve promotional chances of the chargehands in other trades, a decision was taken by the management under Ex. M1 dated 23-11-83 as a result of discussions with the workers union representatives to consider promotion of the employees who are appointed or promoted on or before 1-11-75 for promotion to the next higher promotional post subject to passing of trade test/selection wherever prescribed. Thus, according to Ex. M1 the charge hands who completed 8 years of service by the date of this decision i.e. 23-11-83 were given promotion in the up-graded posts by taking written undertaking that they would continue to perform the duties of lower posts even after promotion and subject themselves to periodic rotation on par with the employees in the lower categories as provided in para 7 of Ex. M1. MW1 deposes that in Ex. M3 dated 13-2-85 and in Ex. M4 dated 15-10-87 administrative decision was taken by the management to fill up the regular vacancy of the promoted post by the senior most Asstt. Foreman. In Ex. M4 it is provided that according to the guidelines on stagnation promotions the upgraded employees should be first absorbed against the available regular vacancies before considering others. Thus, the plea of the management is that Sri B. V. Ramana who completed 8 years of service as on 1-11-83 as chargehand caulker was promoted as per Ex. M1 as a result of which the petitioner herein who was promoted only on ad-hoc basis to the said post was to be reverted. Thus, B. V. Ramana was promoted to the post of Asstt. Shipwright Foreman under the scheme of Up-gradation of the post for meeting stagnation of promotions in other trades which situation is created by the management by making selections to these posts only from the trade carpentry and not considering the candidates from the two other trades. As against this the workman herein was promoted only on ad-hoc basis as is evident from the order under Ex. W1 dated 1-12-86, promoting him on adhoc basis pending selection. MW1 admits in his cross examination that there was no selection subsequent to promotion to this post. The recruitment rules under Ex. M2 show that the post of Asstt. Shipwright Foreman is a selection post and it is a different matter whether Mr. S. V. Ramana or the workman or the workman herein can be continued indefinitely in this post without selection but till such selection is made to a regular vacancy as per recruitment rules. B. V. Ramana has better claims than the petitioner herein as he is much senior to the petitioner and whose claims are ignored as a result of the wrong procedure followed by the management earlier and who was already holding the post as per Ex. M1 under upgraded scheme. The petitioner does not say whether he has completed 8 years of service as on the date of Ex. M1 as chargehand carpenter and whether he was not given the benefit of Ex. M1. In these circumstances, he cannot complain of his reversion for promoting Sri B. V. Ramana in his post. In all these circumstances, I come to the conclusion that the action of the management is justified in reverting the petitioner herein and promoting Sri B. V. Ramana in his place. The workman relied upon a decision of Punjab and Haryan High Court reported 1994 LAB-IC page 1174, Allahabad High Court reported in 1994 LAB-IC 252 and Calcutta High Court reported in 1982 LAB-IC page 563 and contends that he cannot be reverted without giving him an opportunity to hear but in these cases the appointments were made as per the relevant recruitment rules through an adhoc basis and before reverting them, the

court held that he is to be heard. These cases do not apply to the facts of the present case. In the present case, the petitioner was appointed only as a stop gap arrangement without regular selection, though in a regular vacancy and therefore he has no right to the post and drawing of an increment in the promotion post does not make any difference. He can complain only if any injustice is done in reverting him like promotion of his junior ignoring his claim or an unqualified person and some such other grounds. But he cannot have any grievance when a person whose claim was ignored and whose case was not considered as per the recruitment rules was sought to be appointed under a scheme to redress the grievance and which is a step towards doing justice to such a person. I do not find any justification in the claim of the petitioner that only chargehand carpenters are to be considered for the post of Asstt. Shipwright Foreman which is against the relevant recruitment rules and he claim for promotion on the basis of such a practice earlier followed by the management has no basis. In view of these circumstances, I come to the conclusion that the action of the management is proper and the same is justified in reverting the petitioner herein and promoting B. V. Ramana in his place. I find this point accordingly against the petitioner and in favour of the management.

(10) Point No. 2. In view of my finding on point No. 1 above I hold that the petitioner is not entitled to any relief in this petition.

(11) In the result, the reference is answered holding that the action of the management of Visakhapatnam Port Trust in reverting Sri K. Venkata Rao from the post of Asstt. Shipwright Foreman to that chargehand is justified and he is not entitled to any relief in this petition. Accordingly, Nil award is passed. Dictated to steno transcribed by her given under my hand and seal of the court this the 1st day of June, 1996.

G. JAISHREE, Chairman & Presiding Officer

APPENDIX OF EVIDENCE IN LT.I.D. NO. 2/89(C) WITNESSES EXAMINED

For Workman :

WW1 : K. Venkata Rao.

For Management :

MW1 : Korulla Vasudevarao.

DOCUMENTS MARKED :

For Workman :

Ex. W1 : 1-12-86 : Staff changes in Dry Dock.

Ex. W2 : 23-11-87 : Statement showing the staff.

Ex. W3 : 27-11-87 : Letter to ACL/Vsp by workman's union.

Ex. W4 : Parawise remarks of management.

Ex. W5 : 27-6-89 : Letter to Secretary by ACL, Vsp.

For Management :

Ex. M1 : Minutes of the meeting of the Dy. Chairman, CPT.

Ex. M2 : Statement issued by VSP Port Trust.

Ex. M3 : 13-2-85 : Letter issued by Secretary, Vsp. Port Trust.

Ex. M4 : 15-10-87 : Letter issued by Secretary, Vsp. Port Trust.

नई दिल्ली, 3 जूलाई, 1996

का.आ. 2235.—आंदोलिक विवाद अधिनियम, 1947 (1947 का 11) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर्थिक सेट बैंक के प्रबंधन के संघठ नियोजकों और उनके कार्यालयों के बीच, अनुदान एवं निपटन वीलिंगिक प्रिवाइट में केन्द्रीय सरकार औदोलिक अधिकरण,

जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या एल-12012/84/86-आईआर-1/
एल-12012/397/86-आईआर बीआई/
एल-12012/43/87-आईआर थी आई]

पी.जे. माईकल, डैम्स अधिकारी

New Delhi, the 3rd July, 1996

S.O. 2235.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on the 26-6-1996.

[No. L-12012/84/86-IRBI]
[No. 12012/397/86-IRBI]
[No. L-12012/43/87-IRBI]

P. J. MICHAEL, Desk Officer.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR (M.P.)

I. CASE REF. NO. CGIT/LC(R)(3)/1987

(Referred vide Notification No. L-12012/84/96-D. II(A), dated 11th January, 1987 in respect of Shri Sewakdas Vaishnav and 4 others).

2. CASE REF. NO. CGIT/LC(R)(131)/1987
(Referred vide Notification No. L-12012/397/86-D. II(A), dated 29-7-1987 in respect of Shri Shyam Kumar Verma).

and

3. CASE REF. NO. CGIT/LC(R)(145)/1987
(Referred vide Notification No. L-12012/43/87-D. II(A), dated 4th August, 1987 in respect of Shri Sharad Kumar Tambo).

VERSUS

The Regional Manager, Region I, State Bank of India Shankernagar, Raipur (M.P.).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For workmen : Shri S. D. Phadke.

For Management : Shri D. K. Patra.

INDUSTRY : Banking DISTRICT : Raipur (M.P.).

AWARD

Dated : April, 3, 1996.

These are three references made by the Central Government, Ministry of Labour, New Delhi, vide Notifications referred to above, for adjudication of

the following industrial dispute :—

CASE REF. NO. 3/1987.

"Whether the action of the management of State Bank of India in relation to their Raipur Branch in terminating the services of the workmen listed in the Annexure and not considering them for further employment while recruiting fresh hands under Section 25-H of the I. D. Act is justified ? If not to what relief the workmen concerned are entitled ?"

ANNEXURE

Sl No.	Name	Date of Termination
1.	Shri Sewakdas Vaishnav	14-8-1985
2.	Shri Bisahu Ram Nishad	3-9-1985
3.	Shri Tulsi Ram Dewangan	25-7-1985
4.	Shri Ganesh Ram Yadav	24-7-1985
5.	Shri Vina Dhar Sharma	4-7-1985

CASE REF. NO. 131/1987.

"Whether the action of the management of State Bank of India, Regional Office, Raipur in terminating the services of Shri Shyam Kumar Verma, Godown Watchmen in SBI Unit Allied Steel, Tatibandh, Dist. Raipur (M.P.) under Raipur Main Branch w.e.f. 10-7-1983 is justified ? If not, to what relief is the workman entitled ?"

CASE REF. NO. 145/1987.

"Whether the action of the management of State Bank of India, Region-I, in relation to their Raipur Main Branch in terminating the services of Shri Sharad Kumar Tamboli, Ex-Messenger with effect from 21-3-1985 is justified ? If not, to what relief is the workman concerned entitled ?"

2. Case of all the three sets of workmen is that they were appointed by the management by oral order and their services were illegally terminated ; that about eight persons were appointed after the termination of the workmen concerned ; that there were several vacancies in the Bank and the services of the workmen were terminated without giving them notice of termination and without any fault of the workmen. The workmen have pleaded that as per settlement between the Central Union of the Bank and all India State Bank of India Staff Federation the appointment of the temporary employees were to be made from those employees who have already worked in temporary capacity ; that the management has discontinued the workmen from their services in violation of the aforesaid settlement. It is pleaded that the workman Shyam Kumar Verma has continuously worked from 1-3-1982 to 10-7-1983 for 160 days as Watchman at Raipur Main Branch. The workman, Sharad Kumar Tamboli, has worked from 3-10-1984 to 20-1-1985 at Phaphadih Branch, Raipur as Messenger. The workman, Sewakdas Vaishnav, Visahu Ram Nishad,

Tulsi Ram Dewangan, Ganesh Ram Yadav and Vina Dhar Sharma have worked for the period as under :—

1. Sewakdas Vaishnav, Watchman, from 14-5-1985 to 13-8-1985 .
2. Visahu Ram Nishad, Watchman, from 4-6-1985 to 2-9-1985.
3. Tulsi Ram Dewangan, Messenger, from 16-11-1984 to 27-2-1985.
4. Ganesh Ram Yadav, Watchman, from 15-4-1985 to 23-7-1985.
5. Vina Dhar Sharma, Watchman, from 2-4-1985 to 3-7-1985.

3. The workmen have alleged that the termination is in contravention of Section 25-H of the I. D. Act and action be taken against the management for their illegal termination and adequate relief be provided by the Tribunal.

4. The case of the management is that the termination of the employment of the workmen does not amount to retrenchment within the meaning of section 2(00) (bb) of the I. D. Act ; that the workmen were employed on daily wages ; that their employment was purely temporary and for a particular job as Godown Watchman ; that the workmen did not have any right to continue in the employment that the employment of the workmen stood terminated by efflux of time and as such they are not entitled to claim the benefit of Section 25-H of the I. D. Act.

5. Management has raised the objection regarding the maintainability of the reference. The contention of the management is that the management and the Staff Federation of the State Bank of India has reached to a settlement dated 17-11-1981. Cases of temporary employees were withdrawn as a result of settlement.

6. My learned predecessor has ordered on 5-12-1989 to club all the above three reference together. It was furthr ordered that the following will be the issue in the case :—

- (1) Whether in view of the settlement dated 17-11-1987 this reference is not tenable ?
- (2) Whether the action of the management in terminating the services of Shri Shyam Kumar Verma, Godown Watchman in S. B. I. Unit, allied Steel Tatibandh Distt. Raipur with effect from 10-7-1984 is justified. If not, to what relief is the workman entitled ?
- (3) Terms of reference as made by the Ministry was also made the issue ?

Parties have admitted the documents. Oral evidence was not led either by the management or by the workmen.

7. It is not in dispute that not a single workman has worked continuously for more than 240 days.

All the workmen were appointed on daily wages. The workmen were temporary employee. It is observed by the Hon'ble High Court of M. P. at Jabalpur in Petition No. 4908/89 vide order dated 27-7-1994, para 8, that the daily engagement depends upon daily vacancy. It is a daily engagement for a fixed date and after the expiry of the day there is no commitment that the incumbent could be again engaged. It is observed by the Hon'ble High Court that the termination of such workmen does not fall within the meaning of Section 2(00)(bb) of the I. D. Act and therefore protection of Section 25-H is not applicable to the workmen.

8. Our case is exactly the same where all the workmen have worked on daily wages temporarily for less than 240 days. No appointment order was issued to the workmen. Their name was not sponsored by the Employment Exchange and there was no permanent vacancy for that post. Consequently, the termination of these workmen is not retrenchment within meaning of Section 2(00)(bb) of the I. D. Act and they are not entitled for the protection of Section 25-H of the I. D. Act.

9. This fact is not in dispute that all the cases of temporary employees have been considered by the management along with the All India Staff Federation and the Settlement was reached on 17-11-1987 to the effect that the dispute of the temporary employees pending before the Industrial Tribunal shall no longer subsists & be treated to have withdrawn the Union who has espoused the case of the workman have not led any evidence to show that the Settlement reached by the all India State Bank of India (Staff) Federation is not binding on them and they were not the party to the settlement. From the plain reading of the Settlement, it is clear that the benefits were extended to the temporary employees vide Settlement dated 17-11-1987 and it was made applicable to all the temporary employees of the State Bank of India whose cases were pending before the Tribunal or the Labour Court. Consequently, in view of the Settlement dated 17-11-1987 the claim of the workmen in all the three reference is not maintainable.

10. Consequently, the action of the management in terminating the services of the workmen is held justified. Reference are answered accordingly & in favour of the management. Workmen are not entitled for any relief. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 3 जूलाई, 1996

का. आ. 2236.—ऑफिशियल विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्ट्रे बैंक के प्रश्नतंत्र के संबंध में नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑफिशियल विवाद में केन्द्रीय सरकार ऑफिशियल अधिकारण, कागजपत्र

के प्रतिपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-7-96 को प्राप्त हुआ था।

[संख्या ए.ल-12012/3/92-प्राईवेटीवीआई]

पी.जे. माइकल, ऐस्क अधिकारी

New Delhi, the 3rd July, 1996

S.O. 2236.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the industrial dispute between the employers in relation to the management of SBI and their workmen, which was received by the Central Government on the 1-7-96.

[No. L-12012/3/92-IRBI]

P. J. MICHAEL, Desk Officer
ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING
OFFICER CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR
COURT DEOKI PALACE ROAD PANDU
NAGAR KANPUR

Industrial Dispute No. 71 of 1992
In the matter of dispute between :

Abdul Qayum,
S/o. Mohd Ayub,
184-C Sujatganj Chanderi,
Kanpur.

AND

Deputy General Manager,
State Bank of India,
Kanpur Region,
Mall Road Kanpur.

Shri S. N. Sharma for the Management "Virender
Pandy for the workman.

AWARD

Central Government, Ministry of Labour, vide its notification No. L-12012/3/92-L.R(B-3) dated 20-5-92 has referred the following dispute for adjudication to this Tribunal :—

Whether the action of the management of State Bank of India, Kanpur, in terminating the services of Shri Abdul Qayum w.e.f. 1971 is legal and justified ? If not, to what relief the workman is entitled to ?

2. The case of the concerned workman Abdul Qayum is that he was engaged in 1974 as daily rated casual labour with the opposite party State Bank of India, Kanpur. He was engaged on a permanent post and his work of permanent nature. He has worked for more than 240 days in year. Yet his services were illegally terminated in 1977. Hence is entitled for reinstatement with back wages.

3. The opposite party has filed reply in which it has been alleged that reference is highly belayed. Further

the concerned workman had not completed 240 days in year instead he had worked for 204 days in 1974, for 7 days in 1975 and for 13 days in 1977. Hence question of payment of retrenchment compensation and notice pay does not arise.

4. The concerned workman has filed rejoinder in which nothing new has been said.

5. From the above narration of facts it will be evident that year of termination is 1977, where reference is of the year 1992. Thus there is laps of 15 years. No explanation has been given for seeking reference at such belated stage. In the case of Balwant Singh V/S Labour Court Bhatinda 1996 LAB I.C. page 45 it has been held that even a case of illegal retrenchment, reinstatement should not be allowed where the unexplained delay of six years. In the instant case there is delay of 15 years. Hence his reinstatement can not be granted even if termination is bad in law. In view of this legal position it will be futile to examine if retrenchment was bad or not. Accordingly it is not been determined.

6. In the end my award is that because of unexplained delay of 15 years in raising the dispute the concerned workman will not be entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 3 जूलाई, 1996

का.आ. 2237.—ओदोगिक विवाद अधिनियम, 1947 (1947 का 14) की शारा 17 के अनुसरण में, केन्द्रीय सरकार नार्देत रेलवे के प्रबंधनवे के सबूद नियोजकों और उनके कर्मकारों के बीच, अनुदंष्ट में निर्दिष्ट ओदोगिक विवाद में केन्द्रीय सरकार ओदोगिक अधिकरण, कानपुर के एचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-7-96 को शास्त्र दृष्टा था।

[संख्या एल-41011/24/89-आर्कार्डीश्राई]
पी.जे. माइकल, डैस्ट्र क्यान्टरी

New Delhi, the 3rd July, 1996

S.O. 2237.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway and their workmen, which was received by the Central Government on the 1-7-96.

[No. L.41011/24/89-IRBI)]
P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING
OFFICER CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR
COURT DEOKI PALACE ROAD PANDU
NAGAR KANPUR

Industrial Dispute No. 246 of 1989

In the matter of dispute between :

Zonal Working President,

Uttar Railway Karamchari Union,
Roshan Bajaj Lane, 196/96 Ganeshganj,
Lucknow

AND

D.R.M. Northern Railway,
Allahabad.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification No. L-41011/24/89.I.R.D.U. dated 6th October 1989, has referred the following dispute for adjudication to this Tribunal:-

Whether the DRM N. R. Allahabad is justified in terminating the services of Sri Suresh Chand Anwar and Pope Singh w.e.f. 6-8-85, 21-2-82 and 15-3-85 respectively. If not, to what relief the workmen concerned are entitled ?

2. In this reference there are three workmen, namely, Suresh Chand, Anwar and Pope Singh. It is alleged that Suresh Chand had worked as gangman from 6-10-82 upto 5-8-85 under P.W.I. Special Northern Railway Aligarh. In all he had worked for 620 days. Anwar had worked as Khalasi under J.O.W. Northern Railway Aligarh from 25-3-81 upto 20-2-82. Pope Singh worked as gangman under P.W.I Northern Railway Hathras from 14-3-84 upto 14-3-1985. It is alleged that all of the three workmen had worked for more than 240 days in a year, hence their services could not be terminated without compliance of section 25 F I.D. Act. Further juniors were retained in service. Hence the termination of all the three concerned workmen is bad in law.

3. The opposite party railway has filed reply in which nothing has been said about Suresh Chand. With regard to Anwar it is alleged that he had worked from 15-3-81 to 5-1-82 whereas Pope Singh had worked for period as alleged in the claim statement. They have given the details of number of days for which these two workmen are alleged to have worked.

4. In the rejoinder nothing new was said.

5. In support of his case the workmen has filed the affidavit of Suresh Chand who had sworn about the details of all the three workmen. However, in cross examination, he displayed his ignorance about the details of working of number of days for which Anwar and Pope Singh are said to have worked. These two workmen also did not turn up to give evidence. Hence,

in my opinion, the case of these two workmen is not proved at all.

6. As regards Suresh Chand he has filed his service card which shows that from 6-10-82 upto 5-8-85 he had worked in every year for some certain days. However, in his cross examination he has stated that he had worked from 6-10-82 at Tundla. After two or three months he was ceased as gang was diswounded. He was again given a chance as gangman in March 1984 at Aligarh. Thus he at least did not work in the year 1983 according to his own admission. Yet in his service record it is shown that he had worked from 6-1-83 to 5-2-83 and from 6-2-83 to 5-3-83. It shows that this service record have been fabricated for the purposes of the case and no reliance can be placed on it. I am also not inclined to act upon evidence of such a witness who had courage to fabricate the document. Hence I disbelieve it. In this way his case is also not proved.

7. Accordingly it is held that none of concerned workmen had completed more than 240 days in a calendar year as such provisions of section 25F I.D. Act are not attracted. There is no proof worth the name that juniors to the concerned workmen have been retained in service. Hence case under sec 25G of I.D. Act is not proved.

8. Accordingly my award is that the action of the opposite party management in terminating the services of the workmen named in the schedule is justified. Consequently the concerned workmen are entitled to no relief. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 3 जून 1996

का.आ. 2238—औदोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार फतेहपुर क्षेत्रीय ग्रामीण बैंक के प्रबंधनवाले के संबंध नियोजकों और उनके कर्मकारों के द्वीच, अन्यथा में निर्विपट औदोगिक विवाद में केन्द्रीय सरकार औदोगिक अधिकारी, कानून के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-7-96 को प्राप्त हुआ था।

[संख्या L-12012/46/93-ग्राइ आर दी आई]

पी.जे. माईकल, डेस्क अधिकारी

New Delhi, the 3rd July, 1996

S.O. 2238.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure. In the industrial dispute between the employers in relation to the management of Fatehpur Kshetriya Gramin Bank and their workmen, which was received by the Central Government on the 1-7-96.

[No. L-12012/46/93-JRBI]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, PANDU NAGAR, DEOKI PALACE ROAD, KANPUR

Industrial Dispute No. 43 of 1993

In the matter of dispute between :

Beer Bhan Singh S/o Ram Sajwan Singh,
Gram Shivpur, Post Viajipur, Tehsil,
Khaga District Fatehpur.

AND

Chairman,
Fatehpur Kshetriya Gramin Bank,
732 Civil Lines Fatehpur.

AWARD

1. Central Government, Ministry of Labour, vide its notification No. L-12012/46/83-I.R.(B.I) dt. 30-4-93 has referred the following dispute for adjudication to this Tribunal —

Whether the action of the management of Fatehpur Kshetriya Gramin Bank in terminating the services of Sri Beer Bhan Singh w.e.f. October, 1984 and denying him re-employment after 29-6-91 following his acquittal in case No. 184/85 by the court of Munsif Magistrate Khaga District Fatehpur is legal and justified ? If not, to what relief the workman is entitled to and from which date?

2. The concerned workman Beer Bhan Singh in his claim statement has alleged that he was appointed as a peon in July 1982 in Katagan Branch of the opposite party bank (Fatehpur Kshetriya Gramin Bank). Although he was appointed on a regular post and was required to work from 10 a.m. to 5 p.m. daily, he was treated as a daily rated employee and was being paid Rs. 7.20 paise per day as wages. Later on P.F. was also deducted from his salary. The branch manager of the bank used to take work from the concerned workman as domestic servant which he resisted. Therefore, the branch manager stopped taking work from him w.e.f. October 1984. Subsequently he was also falsely implicated in a criminal case from Sithoura branch of the Bank. Ultimately he was acquitted on 29-6-1991. Thereafter he sought re-employment as was promised by the branch manager, he was refused. Representation was also filed which was not disposed of hence the concerned workman filed writ petition before Hon'ble High Court Hon'ble High Court directed the management to dispose of the representation. The same was done and his representation was rejected. Thereafter, he filed another writ petition whereupon the concerned workman was advised to raise industrial dispute. The termination of the concerned workman has been challenged on the ground that he had completed more than 240 days in a calendar year. His services could not have been terminated without payment of notice pay and retrenchment compensation. It was further alleged that in any case after the acquittal he was entitled for re-employment.

3. The opposite party bank has filed reply in which it has been alleged that in the reference order the date of termination has not been given, hence it is vague. Further no demand was made by the concerned workman before raising industrial dispute. The claim was also alleged to be bad for non joinder of necessary parties.

4. On facts it was alleged that the concerned workman was a part time daily rated worker. He had not completed 240 days in any calendar year. Further his appointment was not according to Rules and Regulations. Lastly it was alleged that the concerned workman left the services of his own on 21-10-84.

5. The concerned workman in his rejoinder has denied the factual allegations made in the written statement.

6. In support of his case the concerned workman Beer Bhan Singh has examined himself as W.W.1. Further he has filed Ext. W-1 and W-2 the copies of orders of Hon'ble High Court. Whereas the opposite party has adduced the evidence of their manager Vimal Kumar Srivastava as P.W. 1. Further ext. M.1 to M. 10 has also been filed. Out of which Ext. M-1 is the copy of F.I.R. whereas Ext. M-2 is the copy of judgment of criminal case dt. 29-6-91. Ext. M-3 is the letter dt. 6-8-91 by which the concerned workman has made a request for being taken back in service after his acquittal. Ext. M-5 is the copy of order dt. 4-11-91 by which the representation of the concerned workman was decided. Ext. M-6 to M.9 relate to copies of proceedings before ALC(C) and Ext. M-10 is the copy of vouchers.

7. The first point which needs consideration is as to whether the concerned workman is part time worker or regular worker. In this regard there is evidence of the concerned workman Beer Bahadur Singh who has stated that he had worked from 10 a.m. to 5 p.m. Vimal Kumar Srivastava, M.W. 1 has denied this fact. In his cross examination he has admitted that there is personal file of the concerned workman but its extracts has not been filed in the court. From the perusal of reply of the bank which was submitted before ALC(C) it was nowhere alleged that the concerned workman was a part time worker. Instead it was highlighted that his appointment was casual. Thus it appears to me that present objection in this regard of the management is after thought. Had there been any truth in this matter, this plea would have been set up before ALC(C) as well. Hence it is held that the concerned workman was not a part time worker but a worker for whole time.

8. The second point which needs consideration is as to whether the concerned workman had continuously worked from the date of appointment till the date of his termination. On this point there is once again evidence of the concerned workman. Vimal Kumar Srivastava, M.W.1 had denied this fact. It has already been noticed that the management is in possession of personal file of the concerned workman, hence the management could have given the details of number of working days of the concerned workman with the help of vouchers and other allied papers. Since the

same has not been done, I am inclined to draw adverse inference against the management. In view of this conclusion, I accept the evidence of the concerned workman that he had continuously worked with the bank except on Sundays and Holidays. In this way he had completed for more than 240 days in a calendar year. Admittedly no notice pay and retrenchment compensation was paid to him at the time of his termination, his retrenchment is bad under section 25F of I.D. Act.

9. I do not find any force in the contention of the opposite party that the concerned workman left the job of his own on 21-10-84. No doubt there is evidence of Vimal Kumar Srivastava, M.W.1, but I am not inclined to accept it as this plea was not set up before ALC(C) and further in these days of acute unemployment it is unlikely that the concerned workman would have left the job of his own. Hence this plea is also overruled.

10. It has not been explained on behalf of the management as to how reference is bad on account of non joinder of necessary parties, hence this plea is overruled.

11. I also do not find any force in the contention that the reference order is bad as the exact date of termination is not given. It is enough if the month of termination is given.

12. In the end after having dealt with all the objections raised on behalf of the management and the concerned workman, I come to the conclusion that the retrenchment of the concerned workman was bad in law. Hence, he is entitled for reinstatement with continuity of service.

13. In view of above finding the other part of the reference with regard to re-employment after the date of acquittal is rendered redundant. Hence it need not be answered.

14. In the end my award is that termination of the concerned workman is bad in law. Hence, he is entitled for reinstatement with continuity in service but he will not be entitled for any back wages from the date of retrenchment till the date of reference as he himself is responsible for the delay. He shall also get Rs. 100 as costs of the case.

15. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 3 जूलाई, 1996

का.आ. 2239.—औदोगिक विवाद अधिनियम, 1947
(1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संवद्ध नियोजकों और उनके कर्मकारों के द्वीच, अनुदंधि में निर्दिष्ट औदोगिक विवाद में केन्द्रीय सरकार औदोगिक अधिकरण, जवाहर

के प्रत्येक सो दिकागित करती है, जो केन्द्रीय सरकार को
26-6-96 को इस्तेमाल किया था।

[मस्ति नं- L-12012/215/89-प्राइवेटडीप्राइवेट]

पी.जे. मार्किन, उस्के अधिकारी

New Delhi, the 3rd July, 1996

S.O. 2239.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employees in relation to the management of SBI and their workman, which was received by the Central Government on 26-6-96.

[No. L-12012/215/89-IRBI]

P. J. MICHAEL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(232)1989
BETWEEN :

Shri Radhey Shyam Patel C/o Shri Rameshwar Dayal Srivastava, Advocate, Near Gayatri Mandir, Bhanotra Nagar, District Bilaspur (MP)

AND

The Branch Manager, State Bank of India, Branch Banki Mongra, P. O. Banki-Mongra, Distt. Bilaspur (MP)-495447.

PRESIDED IN :

By Shri Arvind Kumar Awasthy

APPEARANCES :

For Workman : Shri R. Menon, Advocate.

For Management : Shri R. Mehdidutta, Advocate

INDUSTRY : Banking DISTRICT : Bilaspur (MP).

AWARD

Dated : May 1, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-12012/213/89-IR(B-3) dated 7-11-1989, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the Branch Manager, Bankimongra Branch of State Bank of India was justified in discontinuing the service of Shri Radhey Shyam Patel, Messenger, at the said Branch, w.e.f. 24-2-1988 ? If not, to what relief the workman concerned is entitled to ?"

2. Admitted facts of the case are that the workman appointed as Messenger w.e.f. 10-11-80 in 1710 GI/96—9

Banki Mongra Branch of the State Bank of India. It is also not in dispute that the services of the workman were terminated vide order dated 24-2-88 on the allegation that the workman has not declared at the time of his appointment that he has passed XIth Class. It is also not in dispute that the services of the workman were terminated without paying retrenchment compensation or giving him one month's notice.

3. Case of the management is that the recruitment rules of the Bank are that the Class IV employees who has passed matriculate examination should not be recruited and his qualification should only be upto Class VIII standard. That the workman has not disclosed the fact that he was matriculate at the time of his appointment; that the workman has declared during the appointment that he has passed only VIII Class. That the initial appointment of the workman was against the rules and as such the management has terminated the services of the workman on account of fraud by the workman of suppressing the material facts.

4. The case of the workman is that he has not suppressed his qualification at the time of his appointment and he has informed the Branch Manager that he was XI passed; that even otherwise the appointment of the workman is not illegal and on the bare ground of technicality the services of the workman should not come to an end; that the applicant was continuously in employment for more than seven years and his retrenchment without show cause notice or compensation is in contravention of the mandatory provisions of Sec. 25F of the I.D. Act. Workman has claimed his reinstatement with full back wages.

5. Terms of reference was made the issue in this case.

6. Workman has examined himself and the management has examined Shri S. K. Mishra:

7. Shri S. K. Mishra has stated that the workman has suppressed the fact that he was matriculate and had the workman disclosed that he is matriculate he could not have been employed even on daily wages. From the application Ex. M/1 which was filed by the workman for his employment it is clear that he has shown his educational qualification that he is only VIII passed. From the School Leaving Certification and qualification certificate, marked Ex. M/2 and Ex. M/3, which was filed by the workman along with his application for appointment, it is clear that the workman was VIII passed. The workman has also admitted in his cross-examination that in the application made by him for getting the employment, which is marked Ex. M/1, he has disclosed that he was VIII passed. Consequently, it is fully proved that the workman has supplied the information to the management at the time of his appointment that he was only VIII passed.

8. This fact is not in dispute that the workman had cleared XI class at the time of his appointment. Consequently, it is clear that the workman is guilty

of suppressing the fact at the time of his appointment that he was XI passed.

9. Management has filed the Circular No. 76/76 of the State Bank of India (Ex. M6) which lays down the education qualification of Cl. IV employee. It is clearly mentioned that the applicant should not be matriculate. The workman has also admitted in his cross-examination that the candidate who has cleared the matriculate was not entitled for the appointment as daily wages employee. Consequently, the appointment of the workman was in contravention of the Circular (Ex. M6). The workman is guilty of suppressing the fact that he was matriculate. This clause of qualification in the Circular for the appointment of Messenger is to ensure that the proper person who cannot get the proper education should not be deprived of the opportunity for recruitment the clause of qualification that the applicant should not be deprived of the opportunity for recruitment. The clause of qualification that the applicant should not be matriculate is not unjust or improper.

10. Management has succeeded in proving the misconduct by leading the evidence before the Tribunal. The action of the management was justified in discontinuing the service of Shri Radhey Shyam Patel, Messenger, w.e.f. 24-2-1988. Workman is not entitled for any relief. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 3 जूनाई, 1996

का.आ. 2240—ओपोरेंगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रत्यासरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडोर के प्रबन्धतत्त्व के संबंध नियोजनों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओपोरेंगिक विवाद में केन्द्रीय सरकार ओपोरेंगिक अधिकारण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या एल-12012/46/92-आईआरवीआई]
पी.जे. माइकल, ईस्क अधिकारी

New Delhi, the 3rd July, 1996

S.O. 2240.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of Indore and their workmen, which was received by the Central Government on the 26-6-96.

[No. L-12012/46/92-JRBI]
P. J. MICHAEL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR (MP)

CASE REF. NO. CGIT/LC(R)(21)1993

BETWEEN :

Smt. Arpana Joshi and eight others represented through the Regional Secretary, State Bank of Indore Employees Union (MP) City Post Office Building, P. Y. Road, Indore (MP)-452004

AND

The Asstt. General Manager (Personnel), State Bank of Indore, H.O. 5 Yashwant Niwas Road, Indore (MP)-452003.

PRESIDED IN :

By Shri Arvind Kumar Awasthy

APPEARANCES :

For Workman : Shri J. K. Agarwal.

For Management : Shri S. S. Chouhan.

INDUSTRY : Banking. DISTRICT : Indore (MP)

AWARD

Dated : April 25, 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-12012/46/92-IR (B-3) dated 27-1-1993, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the management of State Bank of Indore in not paying special allowance for telephone operation to the following nine Clerk-cum-Telephone Operators, from the date of their initial appointment, is justified ? If not, to what relief, they are entitled to and from what date ?”

1. Smt. Arpana Joshi
2. Smt. Anshumala Trivedi
3. Smt. Pallavi Yadav
4. Smt. Ujjwala Gupte
5. Smt. Anita Singh
6. Smt. Simta Deshpande
7. Smt. Line Veengurlekar
8. Smt. Mridula Karmarkar
9. Ms. Sheela Jhelawat.

2. Admitted facts of the case are that all the workmen were designated as Clerk-cum-Telephone Operators.

3. The case of the workmen is that all the workmen were provided with the training on PBX Board and the management has taken the work of Telephone Operator from the workmen; that the management has denied the Special Allowance for telephone

operation; that the action of the management is unjustified.

4. The case of the management is that there was no vacancy of Telephone Operator at the time of the appointed on clerical grade; that the workmen were appointed on clerical grade; that the combined designation of Clerk-cum-Telephone Operator was given to the workmen in view of the provisions of para 20.1 and 20.2 of First Bipartite Settlement (Marked Annexure 8). Management has denied that the work of Telephone Operator was regularly taken from these workmen; that the real objective of the management in giving the combined designation to these workmen of Clerk-cum-Telephone Operator was to enable Bank to obtain the services of the applicants workmen casually as Telephone Operators; that the casual work of Telephone Operator was required in absence of the permanent telephone operators when they proceed on leave, that the Bank has temporarily and casually taken the work of Telephone Operators from these workmen and paid them accordingly. Management has further alleged that the special allowance of Telephone Operator cannot be paid to these workmen as they were not actually performing the work of Telephone Operator.

5. Terms of reference was made the issue in this case.

6. Workmen has not led any evidence while the management has filed the affidavit of Shri Jinsen Jain, Asstt. Manager of the Bank.

7. From the Bipartite Settlement dated 19-10-66, it is clear that the workman is entitled for the special allowance only when the workman performs the duty of the Telephone Operator. The workmen have not led any evidence to show that they were permanently performing the duty of Telephone Operator. It cannot be presumed from their designation that they were permanently working as Telephone Operators, these workmen were appointed in clerical cadre and the combined designation was given to them in view of the first Bipartite Settlement (Annexure B) and secondly to take the casual work of Telephone Operator from them. The fact that there was no vacancy of Telephone Operator in the Bank for the workmen and that permanent work of Telephone Operator was not taken from them goes to show that their designation as Telephone Operator was casual. In these circumstances the workmen are not entitled for the special allowance of Telephone Operator.

8. Consequently, it is held that all the nine workmen are not entitled for the Special Allowance of Telephone Operator. Reference is answered in favour of the management without any order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer
नई दिल्ली, 1 जूलाई, 1996

का. श्रा. 2241.—ओर्डोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में केन्द्रीय सरकार डब्ल्यू.सी.एन. के प्रत्यन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट

ओर्डोगिक विवाद में केन्द्रीय सरकार ओर्डोगिक अधिकरण जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार की 28-6-96 की प्राप्त हुआ था।

[संख्या एल-22012/207/88-डॉ-4]
राजा लाल, डैस्क अधिकारी

New Delhi, the 1st July, 1996

S.O. 2241.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of W.C.L. and their workmen, which was received by the Central Government on the 28-6-96.

[No. L-22012/207/88-D-4]
RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)
Case Ref. No. CGIT/LC(R)(137)/1989

BETWEEN

Shri Tam Singh represented through the General Secretary, B.K.K.M.S. (BMS) P.O. Parasia District Chhindwara, (MP).

AND

The Deputy Chief Mining Engineer Chhind and Sethia Gr. of Mines P.O. Siroga via Parasia District Chhindwara, (MP).

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri S. K. Rao, Advocate.
For Management : Shri A. K. Shashi, Advocate.

INDUSTRY : Coal Mines. DISTRICT : Chhindwara (MP).

AWARD

Dated, March 12, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. 22012(207)/88-D-4, dated 21st July, 1989 for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the Management of Dy. Chief Mining Engineer Chhindia Sethia Group of W.C. Ltd., Pench Area, P.O. Sirgora Via Parasia, Distt. Chhindwara (MP) in dismissing the services of Shri Tam Singh, Fan Khalasi of Chhindia Project w.e.f. 19-1-1988 is proper and justified? If not, to what relief the workman concerned is entitled?"

2. Admitted facts of the case are that Shri Tam Singh was working as Fan Khalasi at Chhindia Project; that the charge sheet dated 14-1-1988 was issued against the workman on the allegation that on 13-1-1988 at about 8.30 p.m. the workman, Shri Tam Singh alongwith his colleagues assaulted Shri P. N. Aiyer Executive Engineer (E & M) with butt of country made pistol and hockey stick; that the workman was dismissed from the service with effect from 19-1-1988.

3. The case of the workman is that he was falsely implicated for assaulting Shri P. N. Aiyer on account of his trade union activities; that ex parte departmental enquiry was conducted against him and the workman was not informed about the dates of the departmental enquiry; that the criminal trial is pending against the workman and as such dismissal of the workman from the service is illegal and unjustified.

4. The case of the management is that the workman Shri Tam Singh, alongwith his colleague, Gautam Chakravorty, assaulted Shri P. N. Aiyer on 13-1-1988 at about 8.30 p.m. when Shri P. N. Aiyer was returning from the colliery. Management has alleged that the various notices were sent to the workman and after the publication of the notice when

the workman did not appear ex parte enquiry was held against the workman; that the management has given the workman the required opportunity to participate in the enquiry; that the charges were proved against the workman and looking to the gravity of the misconduct the workman was dismissed from the service.

5. Following are the issues in the case:—

ISSUES

1. Whether the enquiry is just, proper and legal?
 2. Whether the management is entitled to lead evidence before this Tribunal?
 3. Whether the charges of misconduct are proved on the facts of the case?
 4. Whether the punishment awarded is proper and legal?
 5. Relief and costs?
6. Issue Nos 1 & 2: The workman did not appear even after the publication of the charge-sheet in the local paper; that the notices were sent to the workman for his appearance and notice of enquiry was published in daily newspaper, Nagpur Times dated 17-1-88. However, it was held vide order dated 27-9-95 that the Enquiry Officer was left with no alternative, but to proceed the ex parte against the workman and the departmental enquiry was just, proper and legal. Issues 1 and 2 are answered in favour of the management.

7. Issue Nos. 3, 4 and 5: Shri P. N. Aiyer, Executive Engineer has stated before the Enquiry Officer that on 13-1-1988 at about 8.30 p.m. when he was going from the Colliery to the residence then the workman, Tam Singh, with a co-worker abused and assaulted him and asked him to come down from the Scooter; that Shri Tam Singh assaulted him with butt of country made pistol and he was saying to kill him. Shri Aiyer has further stated that the bone of his right hand was fractured and caused the injury on his head. From the statement of Dr. J. Prasad and eye witnesses of the incident S. S. Bajwa, Subash Singh and Dukhi, the statement of the complainant are fully corroborated. Consequently, finding of the management in holding that the misconduct against the workman is fully proved is and the workman deserves dismissal from the service is hereby confirmed.

8. The action of the management of Chhindia and Sethia Group of W.C. Ltd., Pench Area in dismissing the services of Sri Tam Singh, Fan Khalasi of Chhindia Project w.e.f. 19-1-88 is held proper and justified. Workman is not entitled for any relief. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 1 जुलाई, 1996

अधिसूचना

का. आ. 2242.—श्रीधोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार प.स.ई.सी.एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबन्ध में निर्दिष्ट श्रीधोगिक विवाद में केन्द्रीय सरकार श्रीधोगिक अधिकारन जबलपुर के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 28-6-96 को प्राप्त हुआ था।

[संख्या एल-22012/433, 94-मार्ग आर(सी-II)]

राजा लाल, डैस्क अधिकारी

New Delhi, the 1st July, 1996

S.O. 2242.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the

management of S.E.C.L. and their workmen, which was received by the Central Government on 28-6-96.

[No. L-22012/433/94-IR(C-II)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR, (MP)
Case Ref. No. CGIT/LC(R)(81)/1995

BETWEEN

S/Shri Bade Bihari Sharma, Achelal Singh, Shivmohan Sampurnand and Ashok Kumar Mukherjee represented through the Secretary, M.P.K.M.S. (HMS), Sohagpur Area, Post Dhanpuri, District Shahdol, (MP).

AND

The Dy. G.M./Sub-Area Manager, Burhar and Navgaon Sub-Area SECL, Post Dhanpuri, District Shahdol, (MP).

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Sampurnand.

For Management : Shri B. B. Singh.

INDUSTRY : Coal Mines. DISTRICT : Shahdol (MP).

AWARD

Dated, March 11, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/433/94-IR.CII, dated 16-5-95, for adjudication of the following industrial dispute:—

SCHEDULE

"Whether the action of the Sub-Area Manager/Dy. General Manager, Burhar and Navgaon Sub-Area of Sohagpur Area of SECL in deleting the names of S/Shri Banke Behari Sharma, Achelal Singh, Shivmohan, Sampurnand and Ashok Kumar Mukherjee (who were promoted as Clerk Grade III w.e.f. 14-3-1992) from revised Promotion Order dated 28-4-1992 is legal and justified? If not, to what relief these workmen are entitled?"

2. Both the parties have not filed their respective statement of claim. Except on 20-2-1996 the workmen remained absent and have not taken any interest in the case. On 20-2-1996 an application duly signed by the Shri S. N. Mishra, General Secretary, MPKMS (HMS), Sohagpur Area and Shri B. B. Singh, Addl Chief Personnel Manager, Sohagpur Area has been filed in which it is stated that the management of SECL has reviewed for promotion to the post of Clerk Gr. III and according a settlement dated 22-7-1995 has been entered into between the management of Sohagpur Area and their workman Shri Sampurnand Dube represented by MPKMS (HMS), Sohagpur Area. In the circumstances, it appears that there remain no dispute between the parties and parties are not interested in contesting the dispute. No dispute award is hereby passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 1 जुलाई, 1996

का. आ. 2243.—श्रीधोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबन्ध में निर्दिष्ट श्रीधोगिक विवाद में केन्द्रीय सरकार श्रीधोगिक

अधिकारी जबलपुर के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या एल-22012/78/86-वी II (बी)]
नज़ा लाल, डैस्क अधिकारी

New Delhi, the 1st July, 1996

S.O. 2243.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of F.C.I. and their workman, which was received by the Central Government on 26-6-96.

[No. I-22012/78/86-B.I(B)]
RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TELBUNAI-CUM-LABOUR COURT, JABALPUR (MP)
Case Ref. No. CGIT/LC(R)(174)/1987

BETWEEN

Shri Shyamal, Waterman, R/o House No. 2-09, East
Champapur, Lalmati, Jabalpur (MP).

AND

The District Manager, Food Corporation of India, Wright
Town, Jabalpur (M.P.).

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri S. Paul, Advocate.
For Management : Shri S. K. Rao, Advocate.

INDUSTRY : FCI.

DISTRICT : Jabalpur (MP).

AWARD

Dated, April 4, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-42012/78/86-B.II(B) dated 7th September, 1987, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the management of Food Corporation of India (MP) in terminating the services of Shri Shyam Lal, Waterman with effect from 16th August, 1984 is justified? If not, to what relief is the workman concerned entitled?"

2. Admitted facts of the case are that the management has not given the retrenchment compensation to the workman in accordance with Section 25F of the I.D. Act. It is also not in dispute that the workman has filed Misc. Petition No. 2533/84 before the Hon'ble High Court of Madhya Pradesh at Jabalpur and the petition was dismissed vide order dated 24-1-86.

3. The case of the workman is that the workman was employed on the post of Waterman and he has continuously worked from 14-4-80 to 16-8-84; that the services of the workman were terminated without giving him the retrenchment compensation and the management has not followed the provisions of first come last go. The workman has prayed for his reinstatement with full back wages.

4. The case of the management is that the workman was never in employment of the management and no relationship between the applicant and the management exists. Management has alleged that Shri Daryanamal Gyanchand was the contractor of the management and Shri Shyam Lal was employed by the said contractor. The management has further alleged that the Misc. Petition No. 2533/84 was filed by the workman for his regularisation and the Hon'ble High Court has dismissed the petition and as such the workman is not entitled for any relief by the Tribunal; that Shri Shyam Lal was not in the roll of the management and as such the ques-

tion of calling Shri Shyamal for the interview did not arise. Management has alleged that the case of Shri Shyam Lal does not fall under Section 25F of the I.D. Act.

5. Terms of reference was made the issue in the case.

6. Workman has examined himself and the management has examined Sultan Haq, Assistant Manager and B. P. Sahu.

7. Shri Shyam Lal has stated on oath that he was employed by the Food Corporation of India Branch at Jabalpur as a casual labour and he has worked from 4-4-80 to 4-4-84. As against this, management witness, B. P. Sahu, and Sultan Haq have stated that Shri Shyam Lal was not working in the office of the F.C.I. and Shri Shyam Lal was the employee of Shri Daryanamal who was the contractor of F.C.I. for transporting the goods of the F.C.I. B. P. Sahu and Sultan Haq has further stated that the Attendance Register and the salary Register of every employee of Food Corporation of India was maintained in the office and name of Shri Shyam Lal does not appear in the aforesaid registers. From Register Ex. M/1 and Ex. M/2 of attendance and salary of employees of F.C.I., it is clear that Shyam Lal was not engaged during 1980 to 1984 by the management.

8. In this case the vital admission made by the management to the effect that Shri Shyam Lal was the employee of the Food Corporation of India. Shri Sultan Haq, Asstt. Manager of F.C.I. has admitted that the reply (Ex. M/8) was filed by the management of the petition made by the workman before the Hon'ble High Court. From para 1 of the reply Ex. M/8 filed by the management, it is clear that the management has admitted that the petitioner was employed on daily wages by the Food Corporation District Manager, Jabalpur as a waterman on 14-4-80. Shri Sultan Haq has admitted in his cross-examination that contents of para 1 of reply (Ex. M/8) are correct. Consequently, from the unequivocal admission of the management before the Hon'ble High Court vide Ex. M/8 it is clear that Shri Shyam Lal was the employee of the Food Corporation of India.

9. Shri B. P. Sahu who was Asstt. Grade I in the office of the Food Corporation of India at Jabalpur has clearly admitted in para 12 of his cross-examination that Shri Shyam Lal used to supply the water to the employees of the management. It is clear from the statement of Shri Shyam Lal, from the cross-examination of B. P. Sahu that the workman, Shyam Lal, used to prepare the vouchers and other papers of the Food Corporation of India, the workman has filed the letter dated 1-5-84 of Sri S. R. Mahtra, District Manager, F.C.I. (Ex. W/1) wherein it is clearly stated that the workman, Shyam Lal, has continuously worked for more than a year from 14-4-80 as a casual labour for supplying drinking water to the staff of the F.C.I. There is another letter written by the Asstt. Manager (Ex. W/2) which goes to show that Shyam Lal was working as casual labour in Food Corporation of India in the year 1984 to supply drinking water to the staff. Consequently, the statement of Shri Shyam Lal that had worked from 4-4-80 to 4-4-84 as a casual labour of F.C.I. is fully corroborated firstly by the admission of the management in N. P. No. 2533/84 (Ex. M/8) and secondly vide letters of their officers Ex. W/1 and Ex. W/2 and thirdly by virtue of the admission made by the witnesses of the management during the cross-examination. In this back drop, it was the duty of the management to examine the contractor, Shri Daryanamal to show that the admission made by the management before the Hon'ble High Court vide Ex. M/8 was false and Shri Shyam Lal was actually the employee of the contractor. Consequently, I hold that the workman has succeeded in establishing beyond doubt that Shri Shyam Lal was the employee of F.C.I. and that he has worked as casual worker continuously for more than 240 days right from 4-4-80 to 4-4-84. The management has not paid the retrenchment compensation nor issued notice before terminating the services of the workman. The contention of the management is that the name of the workman, Shyam Lal, was not sponsored by the Employment Exchange and that there was no post in F.C.I. of a Waterman. The Officer of the management is duty bound to follow the procedure laid down under Sec. 25-F of the I. D. Act before retrenching an employee who has continuously worked for more than 240 days. The workman is entitled for his reinstatement on account of the lapse or breach by the office of the Food Corporation of India in not paying the retrenchment compensation and giving notice before terminating the service of the workman as provided under

Section 25F of the I.D. Act. The workman is entitled for reinstatement on account of breach of proviso of Section 25F of the I.D. Act.

10. Workman has admitted in his cross-examination that after the termination of his services by the Food Corporation of India he was employed by the contractor, Shri Daryanamal. The workman or the management has not pleaded to the effect whether the workman, Shri Shyam Lal, has been gainfully employed after the termination of his service. In absence of the pleading regarding the gainful employment and the clear evidence to that effect by the parties, the rule of no work no pay will be applicable. It is observed in case of Chaman Bhai Asha Bhai Patel Vs. Manager (1985) Lab. IC 1325 and AIR 1980 SC 1896 that the normal rule of full back wages is not applicable in exception cases, Court may mould the relief in special cases. To award huge wage without any pleading and evidence regarding gainful employment is hazardous. The public money is not for undue enrichment.

11. However, in view of the aforesaid circumstances and looking to the admission of Shri Shyam Lal in his cross-examination, I am of the considered opinion that the workman is not entitled for back wages.

12. Consequently, it is held that the termination of service of Shri Shyam Lal was illegal and unjustified. Workman is entitled for reinstatement from the date of publication of the award. The workman will not be entitled for the back wages. Management is directed to pay Rs. 500 to the workman as cost of the reference.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 1 जुलाई, 1996

का. आ. 2244—श्रीधोगिक विवाद श्रधनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुवन्ध में निर्दिष्ट श्रीधोगिक विवाद में केन्द्रीय सरकार श्रीधोगिक अधिकरण, जबलपुर के पंचपट को प्रवाशित करती है जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या एल-22012/14/86-डी III बी/डी-III ए]

राजा लाल, डैस्क अधिकारी

New Delhi, the 1st July, 1996

S.O. 2244.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of W.C.L. and their workmen, which was received by the Central Government on the 26-6-96.

[No. L-22012/14/86-DIII-B/D-III-A]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP).
CASE REF. NO. CGIT/LC(R)(193)/1987
BETWEEN

Shri Pannalal represented through the General Secretary, M. P. Koyalal Khadan Mazdoor Panchayat Junnadeo, P.O. & District Chhindwara (MP).

AND

The General Manager, Kanhan Area, P.O. Dungaria, District Chhindwara (MP).

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri S. K. Rao, Advocate.

For Management : Shri R. Menon, Advocate.

INDUSTRY : Coal Mines DISTRICT : Chhindwara (MP)

AWARD

DATED : APRIL, 11 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/14/86-DIII-B/D-III-A dated July 1987, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the management of Western Coalfields Limited, Kanhan Area in relation to their Nandan II Colliery in retiring Shri Pannalal S/o Shri Anandilal, Foreman w.e.f. 1-7-1985 is justified ? If not, what relief the workman concerned is entitled ?"

2. Admitted facts of the case are that the workman, Pannalal, was working as a Foreman in Nandan II Colliery, M/s. Western Coalfields Ltd.; that the management has written in Form B Register that the date of birth of the workman is 30-6-1925; that the management has retired the workman with effect from 1-7-1985.

3. The case of the workman is that his actual date of birth as per School Certificate is 1-7-1931; that the management has not corrected his date of birth inspite of repeated protest and the notice and he was wrongfully retired with effect from 1-7-85. The workman has prayed for reinstatement with full back wages.

4. The case of the management is that the age of the workman in Form B Register as recorded is 1-7-25; that the management alleges that previously the date of birth of the workman in Form B Register was 14-7-23; that on the basis of the representation made by the workman his date of birth recorded in Form B Register was corrected and instead 14-7-23 it was shown as 1-7-1925; that the workman has accepted the corrected date of birth which was registered as 1-7-1925; that the workman at the fag end of his career when he was served with notice of retirement made a representation that his actual date of birth on the basis of School Certificate is 1-7-1931; that the workman has taken the advantage of correction of his age and as such at the fag end of his retirement he cannot go back and make representation for the correction of his age.

5. Terms of reference was made the issue in the case.

6. The workman has not examined himself nor adduced his evidence to substantiate the case.

7. The Hon'ble Supreme Court in case of Union of India Vs. Harnam Singh (AIR 1993 SC 162 held that there should be strong evidence to show that the date of birth of the workman was wrongly recorded in the papers and the claim of correction of age after undue delay at the fag end of his career should not be normally allowed. Consequently, the contention of the workman that his actual date of birth is 1-7-1931 is an after thought, and highly belated and against his own prior admission is also without any evidence.

8. Consequently, it is held that the action of the management in retiring Shri Pannalal S/o Shri Anandilal, Foreman w.e.f. 1-7-1985 is justified. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 1 जुलाई, 1996

का. आ. 2245.—श्रीधोगिक विवाद श्रधनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुवन्ध में निर्दिष्ट श्रीधोगिक विवाद में केन्द्रीय सरकार श्रीधोगिक अधिकरण जबलपुर के पंचपट को प्रवाशित करती है जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या एल-22012/229/91-आई आर. (सी-II)]

राजा लाल, डैस्क अधिकारी

New Delhi, the 1st July, 1996

S.O. 2245.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of W.C.L. and their workmen, which was received by the Central Government on the 26-6-96.

[No. L-22012/229/91-IR(C-II)]
RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP).

Case Ref. No. CGIT/LC(R)(130)/1992

BETWEEN

Shri Sukhdeo represented through the General Secretary, M.P.K.K.M.P. (HMS), P.O. Junnardeo, Distt. Chhindwara (MP).

AND

The Manager, Nandan Colliery, P.O. Nandan, District Chhindwara (MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri G. N. Shah.

For Management : Shri Chandok.

INDUSTRY : Coal Mines DISTRICT : Chhindwara (MP).

AWARD

Dated, April 11, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/229/91-IR (C-II) Dated 22-6-1992, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the management of Nandan Colliery of W.C. Ltd., in terminating the services of Shri Sukhdeo S/o Sri Subhchand, w.e.f. 22-12-87 is legal and justified ? If not, to what relief the concerned workman is entitled to ?”

2. Admitted facts of the case that the workman, Sukhdeo, was working as a General Mazdoor at Nandan Colliery; that the departmental enquiry was held against the workman and he was dismissed from the service w.e.f. 20-8-1992 on the misconduct of absenteeism.

3. The case of the workman is that he was sick and the workman was under treatment of the hospital of the Colliery; that the workman is totally illiterate and the enquiry officer has not provided him an opportunity to defend his case. The workman has claimed to set aside the order of dismissal and reinstated him with full back wages.

4. The case of the management is that the workman was unauthorisedly absent from duty w.e.f. 11-5-86 without taking sanction from the competent authority; that the charge sheet dated 19-8-86 was issued against the workman and the charges were admitted by the workman; that the punishment imposing on the workman is proper and calls for no interference.

5. Following are the issues framed in the case :—

ISSUES

1. Whether the enquiry is just, proper and legal ?
2. Whether the management is entitled to lead evidence before this Tribunal ?
3. Whether the charges of misconduct are proved on the facts of the case ?
4. Whether the punishment awarded is proper and legal ?
5. Relief and costs ?

6. Issue No. 1 & 2 : Shri Prakash Chandra, Under Manager, has stated that the departmental enquiry against the workman was conducted by him and the charges were voluntarily accepted by the workman. Shri Prakash Chandra has further stated that the workman admitted the charge and Ex. M/1 was signed by the workman. There is nothing on record to show that there was any breach in conducting the enquiry. Consequently, enquiry is held just and fair and Issue No. 1 and 2 are answered in favour of the management.

7. Issue No. 3, 4 & 5 : The workman has submitted the application Ex. W/2 to the Enquiry Officer stating that his wife and children fell ill and the workman remained busy in providing the medical treatment to his wife and children and as such he was unable to attend the duty. Enquiry Officer, Shri Prakash Chandra, has admitted that the said application Ex. W/2 was filed by the workman during the enquiry and the medical certificates Ex. W/3 & Ex. W/4 were also produced by the workman.

8. From the various medical certificate filed by the workman during the enquiry. It is clear that the wife of the workman was ill; she was medically treated by the Doctors of the Colliery Hospital of the management. Enquiry Officer has not taken into consideration the plea of illness of the wife and children of the workman which was the main defence of the workman explaining his absence. The Enquiry Officer has admitted in his cross-examination that certificates Ex. M/7 and Ex. M/8 were also filed by the workman to show his illness. Enquiry Officer has admitted in his cross-examination that he has not taken into consideration the defence of the workman explaining the cause of his absence.

9. The workman has taken the defence at the initial stage that on account of his wife's illness he remained absent. Several medical certificates were filed by the workman during the enquiry. The defence of the workman is not on after thought and on the other hand it is corroborated by the various certificates filed by him during the enquiry. The workman remained absent only for about one and a half months. In these circumstances, it was incumbent on the management to provide an opportunity to the workman to improve himself. The extreme penalty of dismissal was not called for. Workman has alleged that he had neat and clean service record. The workman was honest enough to admit the charges. Workman is a poor labour and illiterate. Consequently, the workman need sympathetic consideration and it will be unfair in the aforesaid circumstances to deprive the workman and his family members from the bread and livelihood.

10. There is no pleading or the evidence to the effect that the workman was not gainfully employed after his termination of his service w.e.f. 22-12-87. The huge amount of back wages cannot be granted to the workman without the pleading and evidence of his gainful employment after his termination. However, there is another exceptional circumstance to deprive the workman from his back wages. Admittedly, the workman remain absent from duty without making the application or the required permission. The workman and the like minded employee will get the sufficient warning for such unauthorised absence if the amount of back wages is not allowed to the workman. Public money cannot be used for undue enrichment for such defaulting employee. Consequently, workman is entitled for reinstatement without back wages.

11. It is, therefore, held that the action of the management in terminating the service of the workman, Sukhdeo, was illegal and unjustified. Workman is entitled for reinstatement. However, workman is not entitled for the back wages or any other consequential relief, whatsoever. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 1 जुलाई, 1996

का.आ. 2246.—ग्रौटोरिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डॉल्यू.सी.एस. के प्रबन्धनीक के संबंध नियोजकों और उनके कमीकरण के बीच अनुबन्ध में

में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रधिकरण जबलपुर के पचास को प्रकाशित करती है। जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या एल-22012/104/92-ग्राइ आर (सी-II)]

राजा लाल, डैस्ट्रिक्ट अधिकारी

New Delhi, the 1st July, 1996

S.O. 2246.—In pursuance of Section 17 of the Industrial Disputes Act 1947 (14 of 1947) the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of W.C.L. and their workmen, which was received by the Central Government on 26-6-1996.

[No. L-22012 104/92-IR (C-II)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT JNDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)
Case Ref. No. CGIT/LC(R)(156), 1992

BETWEEN

The Organising Secretary Rashtriya Koya Khadan Mazdoor Sangh (INTUC), P.O. Chandametta, Distt. Chhindwara (MP).

AND

The General Manager, W.C.L. Kanhan Area, P.O. Dungaria Distt. Chhindwara (MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman—Shri S. K. Rao, Advocate.

For Management—Shri A. K. Shashi, Advocate.

INDUSTRY : Coal Mines

DISTRICT : Chhindwara
(MP).

AWARD

Dated, the 17th May, 1996

This is a reference made by the Central Government, Ministry of Labour vide its Notification No. L-22012/104/92-IR (C-II) dated 10-7-1992, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the management of the General Manager W.C. Ltd. Kanhan Area P.O. Dungaria, Distt. Chhindwara (MP) in not promoting and regularising Mrs. D. R. Masih, Sr. Staff, Nurse, Gr. 'B' Area Hospital WCL Kanhan Area, to the post of T&S Gr. 'A' is justified ? If not, to what relief the workman is entitled to ?"

2. Reference was received in July 1992 and thereafter notices were issued to the workman to file the statement of claim, but on some hearings Counsel for the workman appeared and sought adjournment for filing the statement of claim. More than ten opportunities were given to the workman, but the workman failed to file the statement of claim. On 17-5-96 management's Counsel prayed, that since the workman has not filed the statement of claim, the case may be closed. It appears that the workman is not interested in pursuing the case and the management has rightly prayed to close the case. I have no option but to close the case and pass a no dispute award. No dispute award is passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 1 जून 1996

का.आ. 2247.—ओद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुमति में केन्द्रीय सरकार पम.ई.सी.एल. के प्रबन्धतंत्र के भंडव नियोजकों और उनके कर्मसाङ्गों के बीच अनुवन्ध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक प्रधिकरण जबलपुर के पचास को प्रकाशित करती है जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या एल-22012/111/94-ग्राइ आर (सी-II)]

राजा लाल, डैस्ट्रिक्ट अधिकारी

New Delhi, the 1st July, 1996

S.O. 2247.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.E.C.L. and their workmen, which was received by the Central Government on 26-6-1996.

[No. L-22012/111.94-IR (C-II)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)
Case Ref. No. CGIT/LC(R)(26)/1995

BETWEEN

The Area President, M. P. Koya Mazdoor Sabha (HMS) Chirimiri Area, Post Haldibadi Distt. Surguja (MP).

AND

The Dy. General Manager/Sb Area Manager, N.C.P.H. Colliery SECL Post Haldibadi (Chirimiri) Distt. Surguja (MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman—Shri N. I. Pande.

For Management—Shri R. Mukhyopadhyay.

INDUSTRY : Coal Mines DISTRICT : Surguja (MP)

AWARD

Dated, the 14th May, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/111/94-IR (C-II) dated 2-2-1995, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the management of NCPH Colliery of Chirimiri Area of SECL in not agreeing to the following demands raised by the Area President NPKM is legal and justified ? If not, to what relief the workmen are entitled to ?"

1. Shri Ramo S/o Lakho Coal dresser be paid full wages of suspension period as he was placed under suspension on 19-8-85 which was subsequently revoked. The inquiry proceedings initiated on 19-8-85 should be completed without delay.
2. Sri Ramdin S/o Nanku, Mech. fitter should be paid full wages for the period he was placed under suspension on 25-11-88. Suspension order subsequently revoked and disciplinary inquiry is still pending. Inquiry should be completed without delay.

2 Reference was received on 7-2-1995 Notices were sent to the Union and the Management fixing 9-3-95 for filing of statement of claim by the workmen. Representative of the Union appeared on 9-3-95 but statement of claim was not filed and thereafter on subsequent more than six hearings no one appeared on behalf of the Union nor the statement of claim was filed. On 19-2-96 one Shri Siddiqui appeared on behalf of the Union and prayed for adjournment for filing the statement of claim. In spite of several adjournments statement of claim was not filed by the Union. It appears that the Union or the workmen are not interested in pursuing the case. As such, I have no alternative, but to pass a no dispute award. No dispute award is hereby passed without any order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 1 जुलाई, 1996

का. आ. 2248.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबन्ध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकारण जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या एल-22012/435/94-आई आर (सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 1st July, 1996

S.O. 2248.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.E.C.L. and their workmen, which was received by the Central Government on 26-6-1996.

[No. L-22012/435/94-IR (C-II)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(161)/1995

BETWEEN

The Secretary, B.K.K.M.S., Chirimiri Area, Post Haldibadi, Distt. Surguja (MP).

AND

The Sub-Area Manager, N.C.P.H. Colliery, Post Haldibadi, District Surguja (MP)-497551.

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman—In person.

For Management—Shri A. K. Shasi, Advocate.

INDUSTRY : Coal Mines DISTRICT : Surguja (MP)

AWARD

Dated, the 14th May, 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-22012/435/94-IR (C-II) dated 24-3-1995, for adjudication of the following matter of dispute :—

SCHEDULE

"Whether the action of Sub-area Manager, NCPH Colliery of Chirimiri Area of SECL is not regularising and not making payment of difference of wages to the post of Computer Data Process to Sri Shankar Prasad Mishra employed in this capacity

city since 1988 at Coal Handling Plant, NCPH is legal and justified ? If not, to what relief the workmen are entitled to ?"

2. After the adjudication proceedings started in this Tribunal on receipt of reference order, the workman concerned appeared only once on 20-2-1996, but did not file the statement of claim and prayed for adjournment. On the next date neither the workman appeared nor filed the statement of claim. It appears that the workman is not interested in pursuing the dispute. As such no dispute award as passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer
नई दिल्ली, 1 जुलाई, 1996

का.आ. 2249.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबन्ध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकारण जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या एल-22015/6/94-आई आर (सी-II)]
राजा लाल, डेस्क अधिकारी

New Delhi, the 1st July, 1996

S.O. 2249.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of W.C.L. and their workmen, which was received by the Central Government on 26-6-1996.

[No. L-22015/6/94-IR (C-II)]
RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(19)/1996

BETWEEN

The Secretary, Staff Association Johilla Sub-Area, W.C.L. Nowrozabad, District Shahdol (MP).
AND

The Sub-Area Manager Johilla sub-Area, C.L. P.O. Nowrozabad Colliery, District Shahdol (MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Union—None.

For Management—Shri A. K. Shasi, Advocate.

INDUSTRY : Coal Mines DISTRICT : Shahdol (MP)

AWARD

Dated, the 14th May, 1996

2. This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22015/6/94-IR (C-II) dated 1-1-1996, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the management of Sub-Area Manager, Johilla Sub-Area, Western Coalfields Ltd., P.O. Nowrozabad Colliery in denying to accede the first four demands raised by the President Staff Association Johilla Sub-Area, WCL, Nowrozabad Colliery vide his letter No. SAJ/ALC/(83)12 dated 7-3-83 is legal and justified ? If not, what relief the workmen are entitled to ?"

2. Parties have not filed the statement of claim. What are the first four demands raised by the Union vide letter

dated 7-3-1983, are not on record as the parties have not filed the copy of the letter under reference. However, Counsel for the management has stated that the claim is already decided R/96 of 86. Management prayed to pass a no dispute award. In the aforesaid circumstances it is clear that the workman is not interested in pursuing the dispute. Thus it have no option but to record no dispute award.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 1 जूलाई, 1996

का.आ. 2250.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प.स.ई.सी.ए.ल. के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अन्वन्ध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या पल-22012/135/95-आई आर (भी-II)]

राजा लाल, डैस्क अधिकारी

New Delhi, the 1st July, 1996

S.O. 2250.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.E.C.L. and their workmen, which was received by the Central Government on 26-6-1996.

[No. L-22012/135/95-IR (C-II)]
RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)
Case Ref. No. CGIT/LC(R)(196), 1995

BETWEEN

The General Secretary Koyla Mazdoor Sabha (UTUC)
Post Dhanpuri, District Shahdol (MP).

AND

The Dy. Area Manager, Chachai and Rungta Group
S.E.C.L. Post Amlai Colliery, District Shahdol
(MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman—Shri Jagdish Singh.

For Management—Shri B. B. Singh.

INDUSTRY : Coal Mines DISTRICT : Shahdol (MP)
AWARD

Dated, the 14th May, 1996

This is a reference made by the Central Government Ministry of Labour, vide its Notification No. L-22012/135/95-IR (C-II) dated 20-10-1995, for adjudication of the following industrial dispute :—

SCHEDULE

“क्या प्रबंधतंत्र, एवं केन्द्रीय प्रबंधन, न्यायी एवं शास्त्रीय सुहृद प.स.ई.सी.ए.ल., पोस्ट अमलाई कारबी निला ग्रहणोल के प्रबंधकों द्वारा दी भवत वाल्ड यामणा ग. दि.नं. 035 को पंप खलासी का कार्य वर्ष 1988 में 7-1-91 तक लेने के बाद भी उस पास फ्रलासी के बाहर पर पढ़ाय न करने एवं देने के दृष्टर काभूगतान न करने की कारबाही न्यायोचित है? यदि नहीं, तो इन्द्रिय कर्मकार की अनुसंधान का लकार क्या?

Parties have not filed the statement of claim. On 6-5-1996, workman concerned appeared and prayed to close the case. Since the parties have not filed the statement of claim, I have no alternative but to pass a No Dispute award as prayed by the workman concerned. No dispute award is passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 1 जूलाई, 1996

का.आ. 2251.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ओद्योगिक विवाद अधिनियम के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अन्वन्ध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण जबलपुर के पंचपट वो प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या पल-22012/185/F/89-आई आर (भी-II)]

राजा लाल, डैस्क अधिकारी

New Delhi, the 1st July, 1996

S.O. 2251.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of F.C.I. and their workmen, which was received by the Central Government on 26-6-1996.

[No. L-22012/185/F/89-IR (C-II)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)
Case No. CGIT/LC(R)(256) 1989

BETWEEN

Shri R. N. Saini represented through the Acting President, F.C.I. Karmachari Sangh, M.P. Head Office, 44/26, South T.T. Nagar, Bhopal (MP)-462003.

AND

The Sr. Regional Manager, Food Corporation of India, Bhopal Regional Office, Chetak Building, Mahatma Pratap Nagar, Bhopal (MP)-462011.

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman—Shri K. L. Raj, Advocate.

For Management—Shri S. K. Rao, Advocate.

INDUSTRY : FCI DISTRICT : Bhopal (MP)
AWARD

Dated, the 17th May, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/185/F/89-IR (Coal-II) dated 2-11-1989, for adjudication of the following industrial dispute :

SCHEDULE

“Whether the action of the Regional Manager Food Corporation of India, Bhopal vide letter No. V and S/4(91)/84 dated 11-2-1988 against Sri R. N. Saini AG-III (D) is justified? If not to what relief the workman concerned is entitled?”

2. Admitted facts of the case are that the workman, Shri R. N. Saini, was appointed in the year 1973 as Asstt. Grade III and in the year 1984 the workman was posted in the FCI of Food Storage Depot, Chola Godown C shed under

c supervision and control of the District Manager, Bhopal is also the common ground that the charge sheet dated 1-1985 was issued against the workman Shri Saini on the allegation that Shri Saini while working as Asstt to Shri K. B. Panchbhai, AG-I (D) of C shed at Chola Depot during July 1984 had misappropriated a quantity of 210 Qts. of raw rice by showing rail transit loss which worked out 0.42 to 11.41 per cent; that the workman, Shri Saini, had also recorded under weighment while weighing rice received by wagons Ex Tilda in C Shed at Chola after having conspired with Shri K. B. Panchbhai; that the charges were held proved in the departmental enquiry and the punishment of reduction to the minimum of present time scale of pay for a period of five years during which he shall not earn increments of payment was imposed by the impugned order dated 11-2-1988.

3. The case of the workman is that the false charges were levelled against the workman and they are baseless and without any evidence; that the workman was working under Shri K. B. Panchbhai and he was acting under his direction and there is no evidence of conspiracy; that the finding of the Enquiry Officer are not based on legal evidence but it is on conjecture and surmises; that the D.E. was conducted in breach of rules and the principles of natural justice; that the report of the Enquiry Officer was without application of mind and it was not based on the evidence on record. The workman has prayed that the impugned order dated 11-2-88 be set aside and all consequential benefits be awarded to the workman.

4. Case of the management is that the workman, Shri R. N. Saini while working at C Shed of Chola Depot during July 1984 had conspired with Shri K. B. Panchbhai and misappropriated 210 Qts. of rice and also recorded under weighment which was received by him on 17-7-84 by wagons Ex Tilda in C Shed; that the Enquiry Officer, Shri N. Krishnamurthy, Dy. Manager (Finance) has given full opportunity to the workman to inspect all the documents and cross-examine the witnesses and to adduce evidence in defence. The management has alleged that the misconduct against the workman is proved on the basis of evidence recorded during the enquiry and the impugned punishment of withholding increments commensurate with the proved misconduct.

5. Following are the issues framed in the case :

ISSUES

1. Whether the enquiry is proper and legal ?
2. Whether the management is entitled to lead evidence before this Tribunal ?
3. Whether the charges of misconduct are proved on the facts of the case ?
4. Whether the punishment awarded is proper and legal ? If's effect ?
5. Relief and costs ?

6. Issues No. 1 and 2--Workman has fully participated in the enquiry. There is no breach of rules or principles of natural justice during the domestic enquiry. However, on 16-1-1995 the workman has ultimately rightly admitted the fairness of enquiry. Consequently, Issue No. 1 and 2 are answered in favour of the management.

7. Issue No. 3--It is not in dispute that on 17-7-84 the consignment of raw rice (fine) despatched from Tilda Depot was received in C Shed and the consignment was carried in five sealed wagons of the railway. It is also not in dispute that 210 Qts. of raw rice bags was shown as short delivery; that the workman has made the entry in the weighment sheet (Ex. P/12) in order to show that rail transit loss was to the extent of 10.62 per cent to 11.41 per cent. The only dispute is whether the workman, Shri R. N. Saini, who has shown the receipt of consignment in Ex. P/4 and P/12 has correctly shown loss to the extent of 10.62 per cent to 11.41 percent or the loss was mischievously shown by the workman and whether it was false and incorrect.

8. The quantity received at Chola Depot in C Shed and the number of bags has been indicated by Shri R. N. Saini and Shri K. B. Panchbhai in weighment sheet Ex. P/12.

There is no dispute about the quantity received to have been shown by the workman in daily diary and stockwise register respectively in Ex. P/13 and Ex. 14. This shortage between the despatch weight and receipt weight can also be on account of spillage and pallas. The workman, R. N. Saini and K. B. Panchbhai has failed to show any spillage or pallas in payment sheet or in Palla Register or in stockwise Register. In view of such huge shortage of more than 210 raw rices (fine) it was necessary to show the spillage and pallas collected either in palla, weighment or stock register. In a seal intact wagon the shortage also can be on account of wrong despatch weighment. The other consignment in the same wagon received in other Abadi Godowns where the loss was not found so high and disproportionate as in Chola Depot, of the workman. From the statement of Shri Pillai (MW-1) it is clear that the average weighment per bag issued out to different stations such Jabalpur, Nar-singhpur, Abadi and other the loss was of only 3 Kg. per bag. Admittedly the rule is that whenever in such transit there is variation of more than 500 Gms per bag it is necessary to take 10 per cent weighment. No explanation whatsoever, is given by the workman that inspite of the fact that such huge quantity of more than 210 Qts of rice were food less then why as per Standing Instructions 100 per cent weighment was not conducted. However it is noteworthy that Shri Pillai (MW-1) who has conducted the test check has found that the transit loss was not that high and to the extent of 10.41 per cent and above.

9. In case of such conspiracy by the employees of the F.C.I. working in Godown, it is difficult to get the direct evidence of taking away even such a huge quantity of rice. Such type conspiracy are always hatched in secrecy. The Hon'ble Supreme Court in case of AIR 1980 SC 439 has observed as follows :—

A coconspiracy is always hatched in secrecy and it is impossible to adduce direct evidence of the same. The offence can be only proved largely from the inferences drawn from acts or illegal omission committed by the conspirators in pursuance of a common design."

The workman has not conducted the 100 per cent weighment although the wagons received seal-in-tact and the loss was more than 210 Qts. The spillage or pallas in the wagon collected were not shown in weighment issue or palla register or stockwise register. It was the duty of the workman to inform the railways and other authorities about the transit loss of 210 Qts. of rice. No explanation whatsoever were given of not reporting the matter to various authorities about such a huge loss. The Enquiry Officer has discussed in detail the oral evidence and the attending circumstances to come to the conclusion that the workman has conspired and he was responsible for such a huge loss to FCI the defence failed to show the perversity in the findings of the learned Enquiry Officer. Finding of fact arrived at by the Enquiry Officer and based on proper appreciation of evidence is not generally interfered with as the Enquiry Officer gets the privilege of noticing the demeanour of witnesses and they are conversant of day to day working and ground realities.

10. Consequently, I hold that the findings of the Enquiry Officer and the Disciplinary Authority calls for no interference. It is held in case of Board of Secondary Education (1991-2 SCC 716) that the degree of proof in departmental enquiry is not that high as in criminal case but of cases of Civil nature. It is also pertinent to note that the Hon'ble Supreme Court has held in case of Christian Medical College Union 1988 SCC (L and S) 53 that the Tribunal should be slow in interfering with the findings of the Enquiry Officer unless there is basic error in the reasoning or it is against the evidence on record.

11. From the above discussions, it held that the misconduct against the workman, R. N. Saini is fully proved, Issue No. 3 is answered in favour of the management.

12. Issue No. 4 and 5—Acts and omission of the workman, R. N. Saini has caused the huge loss to the F.C.I. it is on account of conspiracy by the workman with the co-worker. Consequently the management is guilty of showing the undue leniency to the workman in awarding the punishment

of reduction to the minimum of present time scale of pay in period of five years.

13. The action taken by the Regional Manager, Food Corporation of India Bhopal vide letter No. V and S/4 (91)/84 dated 11-2-1988 against Sri R. N. Saini, AG-JII (D) is held just and proper. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 1 जुलाई, 1996

का.पा. 2252.—ओटोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबन्धतात्र के संबद्ध नियोजकों और उनके कमंकारों के बीच, अनुबन्ध में निहिट ओटोगिक विवाद में केन्द्रीय सरकार ओटोगिक अधिकारण, जबलपुर के पंचायत को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या एल-22012/78/86-डी-II (बी)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 1st July, 1996

S.O. 2252.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of W.C.L. and their workmen, which was received by the Central Government on 26-6-1996.

[No. L-22012/78/86-D-II(B)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP).

CASE REF. NO. CGIT/LC(R)(104)/1987

BETWEEN

Shri Shivprasad, Ex-Haulage Khalasi 20/21, Damua Colliery, P.O. Damua, District Chhindwara (MP).

AND

The General Manager, W. C. Ltd., Kanhan Area, P. O. Dungaria, District Chhindwara (MP).

PRESIDED IN : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri D. N. Tripathi.

For Management : Shri P. Banerji.

INDUSTRY : Coal Mines DISTRICT : Chhindwara (MP)

AWARD

DATED : APRIL 12, 1996

This is a reference made by the Central Government, Ministry of Labour vide its Notification No. L-21012/78/86-D-II(B) Dated 10-7-1987, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the management of Damua Colliery of WCL, Kanhan Area, P.O. Damua, Distt. Chhindwara (MP) in stopping from work Shri Shivprasad S/o Shankar, Haulage Khalasi from 28-5-84 and subsequently dismissing him w.e.f. 10-5-85 is justified ? If not, to what relief the worker is entitled to ?"

2. Admitted facts of the case are that the workman Shivprasad, was appointed in Damua Colliery in 1974 as a General Mazdoor. It is also an admitted fact that the charge-sheet dated 25-5-84 was issued against the workman on the ground of long and habitual absenteeism; that the departmental enquiry was held against the workman and his services were terminated vide order dated 10-5-85.

3. The case of the workman is that the Enquiry Officer has not provided the proper opportunity to the workman to defend himself or to cross-examine the witnesses of the management; that the punishment awarded to the workman is harsh and excessive. The workman has prayed for his reinstatement with back wages.

4. The case of the management is that the workman was habitual absentee; that the workman remained absent without leave or permission for 11 days in January 1984, 12 days in March, 1984, 25 days in April, 1984; that the workman in writing has admitted the charges levelled against him; in the departmental enquiry against the workman, the workman voluntarily admitted the charges of habitual absence; that such habitual and long absenteeism completely dislocate the work and the action of the management in terminating the services of the workman is consonance with the proved misconduct.

5. Following are the issues in the case :—

ISSUES

1. Whether the domestic/departmental enquiry is proper and legal ?
2. Whether the punishment awarded is proper and legal ?
3. Whether the management is entitled to lead evidence before this Tribunal ?
4. Whether the termination/action taken against the workman is justified on the facts of the case ?
5. Relief & Costs ?

6. Issue No. 1 & 3 : My learned predecessor vide order dated 12-11-1991 has held that the domestic enquiry was not proper and legal. The domestic enquiry was quashed and the management was permitted to lead the evidence to prove the misconduct.

7. Issue No. 2, 4 & 5 : Shri R. N. Sonwani, Manager Nandan Mine of W.C. Ltd. has stated that the workman, Shivprasad, was working under his control and Shivprasad was in the habit of absenting himself from duty without prior permission or intimation; that the workman, Shivprasad, was availing the leave of 40 days in a year and even after availing the leave he used to absent himself from duty without prior permission. Shri R. N. Sonwani has further stated the workman, Shivprasad, was having an Umbrella Repairing Shop and he was doing the job even after the termination of his service.

8. From the written admission made by the workman during the departmental enquiry, it is clear that the workman has not disputed that he was guilty of long and habitual absenteeism. The defence of the workman is that his wife was ill and as such he was unable to attend the duties. Management has filed Ex. M/13 and Ex. M/14 to show that the workman was absent from duty 119 days in 1984, 40 days from January 85 to May 1985. The workman has not led any evidence to challenge the evidence adduced by the management. Consequently, it is proved that the workman is guilty of the misconduct of long and habitual absenteeism.

9. It is held in case of A. M. Eashwarachar Vs. Executive Engineer (Electrical) 1995-I-LLJ p. 1065 that the instance of the habitual absenteeism should be dealt with firmly as it is not only in public interest, but also in the interest of industry. Consequently, it is held that the management has succeeded in proving the gross misconduct of the workman of habitual absenteeism and his dismissal was proper.

10. Consequently, the action of the management in dismissing the workman, Shri Shivprasad from service with effect from 10-5-85 is justified. Reference is answered in favour of the management. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 1 जूलाई, 1996

का आ. 2253.—ओर्डोरिंग विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रभ.इ.सी.एल. के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्कारों के बीच, अनुबन्ध में निर्दिष्ट ओर्डोरिंग विवाद में केन्द्रीय सरकार ओर्डोरिंग का अधिकरण, जबलपुर के दस्तपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[मंड़ा. प्रा. 22012/424/94-प्राई आर (सी-II)]

राजा लाल, इंस्क्र अधिकारी

New Delhi, the 1st July, 1996

S.O. 2253.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.E.C.L. and their workmen, which was received by the Central Government on 26-6-1996.

[No. L-22012/424/96-FR(C-II)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(38)/1995

BETWEEN

Shri Ghasi Ram S/o Shri Maladhari, V.P.O.
Simma, Teh. Kotma, District Shahdol (MP).

AND

The Sub-Area Manager, Rajnagar R.O. of
S.E.C.L., Post Rajnagar Colliery, District Shahdol
(MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri R. K. Thakur Advocate.

For Management : Shri A. K. Shashi, Advocate.

INDUSTRY : Coal Mine DISTRICT : Shahdol
(MP).

AWARD

Dated : April 17, 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-22012(424)94 IR-C.II dated 16-2-1995, for adjudication of the following industrial dispute :—

SCHEDULE

"Whether the action of the Agent/Sub Area Manager, Rajnagar R.O. of SECL Hasdeo Area in terminating Shri Ghasti Ram S/o Maladhari Trammer 5/6 Colliery of SECL w.e.f. 19-11-91 is legal and justified? If not, to what relief the workmen is entitled to?".

2. Inspite of several dates were fixed for filing the statement of claim by the workmen, the workman has not filed the statement of claim etc. However, a Memorandum of Settlement dated 17-2-96 is filed by the Counsel of the management and stated that the Settlement is verified by both the parties. The terms of settlement which appear to be just and proper are as under :—

TERMS OF SETTLEMENT

1. The management agreed that Shri Ghasti Ram S/o Shri Maladhari Ex-Trammer of Rajnagar R.O. Colliery will be re-instated as Trammer subject to medical fitness.
 2. Agreed that no back wages and consequential benefits will be paid to Shri Ghasiram S/o Shri Maladhari from the date of his termination i.e. 19-11-91 to till the actual date of joining duty at the place of posting on re-instatement.
 3. Shri Ghasiram S/o Shri Maladhari agreed that the dispute is fully and finally resolved on account of the above settlement and further agreed that the issues settled herein will not be raised at any forum before any authority.
 4. Agreed by both the parties that the copy of settlement will be sent to appropriate authority ALC(C), Shahdol for the purpose of registration as required under I.D. Act, and Rules framed thereunder.
 5. Agreed that Shri Ghasiram S/o Shri Maladhari will be treated in continuity of services for the purpose of Gratuity only.
 6. Shri Ghasiram S/o Shri Maladhari agreed to not repeat this type of misconduct in future.
 7. This mutual settlement will be last and final.
3. Award is passed in terms of the aforementioned Settlement dated 16-2-1996.

Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 1 जुलाई, 1996

का.आ. 2254.—ओर्डोरिंग विवाद अधिनियम, 1947 (1947 का 14) की धारा 37 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबन्धदाता के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट ओर्डोरिंग विवाद में केन्द्रीय सरकार ओर्डोरिंग अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-96 को प्राप्त हुआ था।

[संख्या एल-21012/28/डी-4(बा)]

राजा लाल, डैस्क अधिकारी

New Delhi, the 1st July, 1996

S.O. 2254.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.E.C.L. and their workmen, which was received by the Central Government on 26-6-1996.

[No. L-21012/28/D-4(B)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/I.C(R)(9)1989

BETWEEN

Shri Nanha Coal S/o Shri Barkauna, Village
Gallaiya Tola, Post Bijuri, District Shahdol (MP).

AND

The Dy. C.M.E. Duman Hill Group, Post Duman Hill Colliery, Surguja (MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri S. Paul, Advocate.

For Management : Shri Rajendra Menon,
Advocate.

INDUSTRY : Coal Mine

DISTRICT : Surguja (MP).

AWARD

Dated : April 19, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No.

L-12012/28/D-IIIB/D-4(B), dated 3-1-1989 for adjudication of the following industrial dispute:—

SCHEDULE

“Whether the action of the management of Duman Hill Colliery of Chirimiri Area of M/s. SECL in dismissing Sri Nanha Kol S/o Badkuna, General Mazdoor, vide letter No. SECL/S(M)/Disp/1429-36 dated 30-1-87, is legal and justified. If not, to what relief the workman is entitled and from what date?”.

2. Admitted facts of the case are that the workman, Shri Nanha, was working as a General Mazdoor Cat. I in Duman Hill Colliery; that the charge sheet dated 24-6-86 for the unauthorised absent for more than five years was issued against the workman and the workman was dismissed from service w.e.f. 30-1-87.

3. The case of the workman was that he was ill and the enquiry officer has not provided him the sufficient opportunity to defend his case; that the punishment is harsh and the workman be reinstated with full back wages.

4. The case of the management is that the workman has admitted the charge regarding his absenteeism for more than five years; that the enquiry was conducted as per rules and in accordance with the principles of natural justice; that the dismissal of the workman was just and proper.

5. Following are the issues in the case :—

ISSUES

1. Whether the enquiry is proper and legal?
2. Whether the management is entitled to lead evidence before this Tribunal?
3. Whether the charges of misconduct are proved on the facts of the case?
4. Whether the punishment awarded is proper and legal? Its effect.
5. Relief and costs?

FINDINGS :

6. Domestic enquiry was held just, proper and legal vide order dated 7-3-1996.

7. The workmen was examined by the Enquiry Officer and the workman has clearly admitted in his examination that he was absent for more than five years. The workman has also submitted a letter Ex. M/3 admitting unauthorised absenteeism and he has prayed therein to forgive his fault. Thus the finding of the Enquiry Officer of unauthorised long absenteeism of the workman is just and proper. Workman has not produced any evidence to show

that on account of sickness he remained absent. Dismissal of the workman from service on account of such prolong absenteeism is justified.

9. The action of the management in dismissing Sri Nanha Kol S/o Badkuna, General Mazdoor vide letter dated 30-1-87 is legal and justified. Workman is not entitled for any relief. Reference is answered in favour of the management. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 5 जूलाई, 1996

का.आ. 2255.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार चिरमिरी कालरी के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार द्वा 27-6-96 को प्राप्त हुआ था।

[संख्या प.ल-22012/410/94-प्राईवेट (ख-2)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 4th July, 1996

S.O. 2255.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Chirmiri Colliery and their workmen, which was received by the Central Government on the 27-6-96.

[No. L-22012/410/94-IR(C-II)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(230)/1994

BETWEEN :

Shri Jailal represented through the Regional Secretary, S. K. M. S. (AITUC), Post Chirmiri Colliery, District Surguja (M.P.)

AND

The Sub-Area Manager, Chirmiri Colliery, S.E.C. Ltd., Chirmiri Colliery, District Surguja (MP).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : None.

For Management : Shri A. K. Shashi, Advocate.

INDUSTRY : Coal Mines

DISTRICT : Surguja
(MP.)

AWARD

Dated : April 3, 1996

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/410/94-IR(C-II) dated 12-12-1994, for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the management of Sub-Area Manager, Chirmiri Colliery of SECL in dismissing Sh. Jailal S/o Chotu, Belt Conveyor Operator, Chirmiri Colliery w.e.f. 15-2-93 is legal and justified? If not to what relief the workman is entitled to ?”

2. Reference was received on 19-12-94 and several notices were issued to the workman to file the statement of claim. Management had appeared on several hearings and the statement of claim was filed by the management. The prayer of the management to close the case on account of the non-appearance of the workman is considered. Workman is not appearing in spite of repeated notice nor the statement of claim is being filed by him. As such, it appears that the workman is not interested in pursuing the case. Workman was dismissed from service on account of long absence after holding the departmental enquiry.

3. In the circumstances, I have no option but to pass a no dispute award. Consequently, no dispute award is passed. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 2 जूलाई, 1996

का.आ. 2256.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार खादी आमोद्योग के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-7-91 को प्राप्त हुआ था।

[संख्या प.ल-42011/8/95-प्राईवेट आर(डीए)]

के.वी.बी. उण्णी, डेस्क अधिकारी

New Delhi, the 2nd July, 1996

S.O. 2256.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Khadi Gramodyog and their workman, which was received by the Central Government on 1-7-1996.

[No. L-42011/8/95-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

I. D. No. 34/96.

In the matter of dispute between :

Shri Rajinder Chaudhry, Helper through Sachiv, Khadi Gramodyog Bhawan, Karamchari Sangh, 24, Regal Building, Connaught Circus New Delhi-110001.

Versus

Prabandhak, Khadi Gramudyog Bhawan, 24, Regal Building Connaught Circus, New Delhi-110001.

APPEARANCES :

Shri Bhim Singh Bajeli with Shri Rajinder Chaudhary Workman.

Shri R. N. Tripathi for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42011/8/95-I.R.(DU) dated 23rd March, 1996 has referred the following industrial dispute to this Tribunal for adjudication :—

"Whether the action of the management of Khadi Gramodyog Bhavan by not promoting Shri Rajinder Chaudhary, Helper to the post of Junior Cashier is justified ? If not, to what relief the workman is entitled ?"

2. Rajinder Chaudhary workman on 4-6-1996 did not file his statement of claim but made statement that he has since been promoted as a salesman and he did not want any other relief in the present reference. He further stated that he wanted to close the case and a No Dispute award may be given.

3. In view of the above situation No dispute award is given in this case leaving the parties to bear their own costs.

Dated : 10th June, 1996.

GANPATI SHARMA, Presiding Officer

नई विलासी, 5 जूलाई, 1996

का. अ. 2257—ऑटोमिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार आर्थिक तेल निगम के प्रबंधसंच के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अ.प्र. में फिदेट औटोमिक विवाद में, केन्द्रीय सरकार ऑटोमिक अधिकार, मुम्बई स. 2 के दबदद नो प्रकाशित करती है, तो केन्द्रीय सरकार को कोशल बृशा ना।

[गंभीर-एल-30012/10/89-प्राइवार (फ.) (भी-1)]

कर्त नोहन, डैस्ट्र प्रधिकारी

New Delhi, the 5th July, 1996

S.O. 2257.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bombay No. 2 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Oil Corporation and their workmen, which was received by the Central Government.

[No. L-30012/10/89-IR (Misc.) (C-I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI PRESENT :

Shri S. B. Panse, Presiding Officer

Reference No. CGIT-2/22 of 1989

Employers in relation to the Management of Indian Oil Corporation Limited, Mumbai

AND

Their Workmen

APPEARANCES :

For the Workmen : Shri L. M. Nerlekar Advocate.

For the Employer : Shri D. M. Utekar Advocate.

Mumbai, the 14th May, 1996

AWARD—PART-II

On 10th November, 1995 by Part-I Award I gave findings on all issues except issues Nos. 5, 6 & 7. The remaining issues and my findings thereon are as follows.

ISSUES

	FINDINGS
1. Whether the termination the service of the said employee is illegal, unjust and improper for the grounds/any of the grounds mentioned by her in para 19 of her statement of claim ?	No.
2. If not, to what relief she is entitled ?	Does not survive.
3. What Award ?	As per final Order.

REASONS

2. In nut shell the reference was send to this Tribunal by an order of the Government of India Ministry of Labour by its order No. L-30012/10/89-IR (Misc.) dated 26th July, 1989. Sanjala Patel was appointed as a typist with the company on 3-9-1996. She was promoted as Assistant in

the year 1986. She got married. Her husband left for Muscat.

3. Sanjala Patel gave an application for leave for 54 days which includes 12 days earned leave and 42 days leave without pay. It was from 10-2-86 to 5-4-86. The company granted it. After reaching Muscat where her Husband was there she sent telegrams, applications alongwith medical certificates and asked for extension of leave on the ground of sickness. The company continued to do so till September 15, 1986. She was informed that she has to appear before the Doctor of the company for medical fitness and resume the duties, failing which action will be taken against her. Even though she received the letter she continued to follow her usual method of sending application alongwith certificate.

4. On 7-1-1986 the company wrote a letter to her that they had taken action against her as per para 10.1 of the Standing Orders and her services are terminated w.e.f. 16-9-1986. She came to Bombay on 3-2-1987 and got herself examined by Dr. Mrs. Gokhale. She went into the office of the company on 9-2-87 alongwith certificate and requested for allowing her to join the duties. She was not allowed to join duty as she was not in service. Her services were already terminated.

5. There was no domestic inquiry while taking action against the worker. While deciding Part-I Award I came to the conclusion that as there was no domestic inquiry the action is against the Principles of natural justice and the management was allowed to lead evidence to justify its action. The worker was also given an opportunity to lead evidence in support of her case.

6. The management examined one D. Natrajan (Exhibit-23), a retired employees of the company who was joint controller (Financial). There is an evidence of one Sharma Deputy Manager at Exhibit-16. So far as the workman is concerned she did not enter into the witness box. Sufficient opportunities were given to her to lead evidence. I may mention it here that she had not lead oral evidence at the time of Part-I award also.

7. Natrajan admits the fact that due to her application there was a sanction leave to the worker till 15-9-86. In other words her absence from 16-9-86 was not sanctioned and ultimately by order dated 7-1-87 she was terminated from service retrospectively from 16-9-1986.

8. It is pertinent to note that the company sanctioned her leave for 54 days from 10-2-86 to 5-4-86. Then she left for abroad to join her Husband. On 8-4-86 she wrote a letter supported by medical certificate and requested for 12 weeks leave. In other words she intimated the company that she could not join the duties till 5-7-86. Thereafter on 3-7-86 she sent another letter supported

by medical certificate contending that she is asked by the Doctor to have one months rest. That take for extension of leave till 5-8-86. Thereafter on 20-7-86 she sent an application supported by certificate of Doctor contending that she required rest for six weeks i.e. from 27-7-86 to 15-9-86. Up to this period the company sanctioned her leave.

9. The company wrote a letter dated 17-10-86 (Exhibit-8|11) advising her that requests for extension of leave not granted and she should report for check up before the Corporations doctor. She received that letter. Instead of appearing before the Doctor of the Corporation she sent an application dated 29-10-86 (Exhibit-8|12) requesting for extension of leave for twelve weeks. She was informed by the Corporation by its letter dated 25-11-86 (Exhibit-8|13) that he requests cannot be granted and she should report to duty immediately. She again sent an application dated 8-12-86 (Exhibit-8|14) that she may be given unpaid medical leave for further period. Thereafter the management by its letter dated 7-1-87 (Exhibit-8|15) informed her that her services are terminated w.e.f. 16-9-1986.

10. The bona fides of the Corporation could of seen from this correspondence. The Corporation had shown sympathy to the worker to the fullest extent. At initial stage it granted her application as prayed for. Ultimately they found that the medical certificate send by her are not trust worthy. They asked her to appear before the medical officer of the Corporation. This is not in dispute. She did not appear before the doctor of the corporation, as asked by the management. It appears that the conduct of the worker is that she could do anything and the corporation has to allow it. She approached to Doctor Mrs. Gokhale on 3-2-87, get herself examined and came to the company for joining on 9-2-87. Doctor Mrs. Gokhale is not the Doctor of the Company. Naturally her certificate and appearing before the Company alongwith that certificate is without any merit. Further more at that time in view of the order dated 7-1-87 she was not in service at all. In other words it has to be stated that company had given sufficient opportunity to the worker to justify her action. She was to justify that intimation which she gave to the company for not attending the office was just and proper. But not appearing before the companies Doctor it has to be said that the intimation which she gave to the company regarding her sickness was not true and genuine.

11. It can be further seen that the company had challenged the correctness of the medical certificate and her sickness. In that case it was her duty to prove the medical certificates to substantiate her absence. But she had not done so. Under such circumstances the medical certificates given by her after the period 15-9-86 cannot be accepted.

12. It can be seen that by the letter dated 7-1-87 her services were terminated from 13-9-86. It is retrospective termination. It is not proper. The termination should have been from the date of the issue of the letter dated 7-1-87. In fact even if her termination treated from 7-1-87 it makes no difference. Because before 7-1-87 she had not come to the company and tried to get herself medically examined by the Doctor to support her case. When it is found that the termination is retrospective it can be seen whether it can be given effect from the date of the issue of the notice. Here in this case, the termination can be given effect from 7-1-87 i.e. date of the issue of notice. For all these reasons I record my findings on the issues accordingly and pass the following order :

ORDER

1. The action of the management of Indian Oil Corporation Ltd., Bombay in terminating the services of Mrs. Sanjala M. Patel, assistant w.e.f. 7-1-87 is legal and justified.
2. No order as to costs.

S. B. PANSE, Presiding Officer

नई दिल्ली, 5 जुलाई, 1996

का.आ. 2258.—ओडोगिक विवाद अधिनियम, 1947 (1947 का. 14) की क्षारा 17 के अनुसरण में, केन्द्रीय सरकार ओ.एन.जी.सी. के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के द्वारा, अनुच्छेद में निर्दिष्ट ओडोगिक विवाद में, केन्द्रीय सरकार ओडोगिक अधिकारण, कानपुर के पंचपट को द्रकाण्डा करती है, जो केन्द्रीय सरकार को 11-6-96 को प्राप्त हुआ था।

[संचया पल-30012/7/89-मार्ई जारी (मिति) / (सो-1)
द्वज शोहन, ईस्क अधिकारी

New Delhi, the 5th July, 1996

S.O. 2258.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ONGC and their workmen, which was received by the Central Government on 11-6-1996.

[No. L-30012/7/89-IR(Misc)(C-I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA, PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, DEOKI PALACE ROAD, KANPUR

Industrial Dispute No. 220 of 1989
In the matter of dispute between :

Sri Prem Lal
S/o L. Taradutt,
C/o Sri De Maal
C. B. I. Karyalaya
5 Teg Bahadur Road,
Dehradun.

AND

Chairman
Oil & Natural Gas Commission
Tel Bhawan,
Dehradun.

AWARD :

1. Central Government, Ministry of Labour, vide its Notification No. L-30012/7/89-I.R. (Misc) dated 9th September, 1989, has referred the following dispute for adjudication to this Tribunal:

Kya ONGC Dehradun ke prabandhak dwara Sri Premlal S/o L. Sri Taradutt Gond ko dinank 1-9-88 se naukari se nishkashit karna nyayochit hai? Yadi nahi to karmkar kis anutosh ka adhikari hai?

2. From the pleadings of the parties and the evidence on record it is established that the concerned workman Prem Lal was originally appointed as guard/peon on 21-12-83, in the guest house by the opposite party Oil & Natural Gas Commission, Tel Bhawan, Dehradun. His services were ceased on 27-7-86. He carried the matter before LC(C). Their amicable settlement took place on 6-3-87 and the concerned workman joined on 1-4-87. His services were again brought to an end on 29-7-87. The matter was once again carried before ALC-C and ultimately a settlement was arrived on 7-10-87. In pursuance of this settlement the concerned workman joined on 1-12-87.

3. The case of the concerned workman is that, from 1-12-87 to 31-8-88 he continuously worked. In the evening of 31-8-88, he was informed that in the duty chart his name has not been included which in turn mounts to retrenchment w.e.f. 1st September, 1988. This retrenchment is bad because of non-compliance of provisions of Section 25-F of Industrial Disputes Act, 1947.

4. The opposite party has filed reply in which it is alleged that the concerned workman appoint-

ed as contingent guard. From 1-12-87 upto 31-12-88 he worked as contingent peon/guard and thereafter the function of security was given on contract labour and the concerned workman worked under Contract Labour thereafter and that too not continuously. Hence question of his termination by the management does not arise. In any case, it was pleaded that the case of the concerned workman is covered by proviso (oo) of section 2(bb) of I.D. Act.

5. In support of his case, the concerned workman has filed his affidavit on 26-12-90. Further he has filed Ext. W-1 to W-9. The opposite party has filed affidavit of one Ratan Singh Bath on 6-11-92 but he was not produced for cross-examination. Instead evidence of G.S. Rawat has been adduced.

6. The first point which needs consideration is as to whether the concerned workman continued to work under the opposite party or under contract labour w.e.f. 1-12-87.

7. The concerned workman in his affidavit has sworn that he had continuously worked under the opposite party management. In his cross examination he has denied the suggestion that he had worked under any contractor thereafter. The evidence of G. S. Rawat on behalf of management is of no use as he has no personal knowledge about the pleas of the concerned workman. The fact that concerned workman had worked under contract labour is to be established by the management which they have not been able to establish. The name of contractor has not been given in the pleading. The agreement of contractor has not been filed. To be precise there is not a word of evidence to prove that the concerned workman has worked under contract labour w.e.f. 1-2-87 to 31-12-88. Instead this fact stands belied from Ext. W-1 and W-2 the memo issued by the opposite party to the concerned workman by the opposite party that the concerned workman in August 88 in which he has been described as contingent guard he has been changed of having been found sleeping on duty. This paper further lend support to the case of the concerned workman. Hence I have no hesitation in holding that from 1-2-88 to 31-12-88 the concerned workman continued to work under opposite party as contingent guard. He never worked under any contractor during this period.

8. I am further of the view that in this case provision of section 2(oo) of section 2(bb) of I.D. Act are not attracted at all as it has never been the case of the opposite party that the appointment of concerned workman was for any fixed period and that his services came to an end by efflux of time. Hence, this plea is turned down.

9. In the end once having found that the concerned workman had worked from 1-12-87 upto

31-3-88 continuously clearly he had completed more than 240 days in a year preceding the date of his termination. Hence, there was need for compliance of Section 25-F I.D. Act, which has admittedly been not done. Accordingly, I have no hesitation in holding that the termination of concerned workman is bad in law.

10. Now the question arises as to what relief the concerned workman should be given. It is evident that the concerned workman was earlier not given duty which resulted in proceedings before ALC(C) and consequent settlement. Further from Ext. W-1 and W-2 it appears that the concerned workman had been served with a memo for having been found sleeping on duty. It all shows that there had been strain relationship between the management and the concerned workman and it will not be conclusive to industrial peace if he is allowed to go back in service. Instead ends of justice would met if he is paid Rs. 10000 as compensation in lieu of reinstatement.

10. In view of above discussion, my award is that the termination of the concerned workman is not justified. However he will not be entitled for re-employment. In view of it he will get Rs. 10,000 as compensation from the opposite party.

11. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 5 जुलाई, 1996

का.आ. 2259.—ऑडिओग्राफ विवाद अधिनियम, 1947 (1947 का 14) को प्रारंभ 17 के अनुसरण में, केन्द्रीय सरकार एयर इंडिया लि. के प्रबंधताल के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑडिओग्राफ विवाद में, केन्द्रीय सरकार और ऑडिओग्राफ अधिकारी, मुम्बई-2 के पंचपट को प्रकाशित करनी है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

[संख्या ए.ल-11012/6/94-प्राइवेट (मि.)/(सी-1)]

ब्रज मोहन, डेस्क अधिकारी

New Dehli, the 5th July, 1996

S.O. 2259.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bombay No. 2 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Air India Ltd. and their workmen, which was received by the Central Government.

[No. L-11012/6/94-IR(Misc)(C-I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. II, MUMBAI.
PRESENT :

Shri S. B. Panse, Presiding Officer.

REFERENCE NO. CGIT-2/25 of 1995
BETWEEN :

Employers in relation to the management of
Air India Ltd.

AND

Their workmen.

APPEARANCES :

For the workmen . No Appearance.

For the Employer : M/s. Bhasin & Co., Advocate
Mumbai, dated 15th May, 1996

AWARD

The Government of India, Ministry of Labour by its order No. L-11012/6/94-IR (M.Sc) (Coal-I) dt. 3-11-95 had referred to the following dispute for adjudication.

SCHEDULE

"Whether the action of the management of Air India now Air India Ltd., in awarding the punishment of removal from services to Mr. R. N. Thomare, Ex-loader w.e.f. 5-5-89 for his absence without permission from 1-9-1988 to 21-11-1988 is legal and justified ? If not, to what relief the workman is entitled to ?"

2. It can be seen that the desk officer send the order to the Tribunal. He had sent its copies to the concerned parties. One of such copy was send to the worker. After receipt of that order the Secretary of the Tribunal had also issued notices to the concerned parties directing them to appear before the Tribunal and comply. That notice was received by the worker and the management. The management appeared through M/s. Bhasin & co. So far as the worker is concerned he remained present on many occasions and sought for adjournment for filling Statement of Claim. He did not file any say on the appearances of M/s. Bas'n & Co., Advocates.

3. On 19-4-96 the worker was specifically told that if he fails to file a statement of claim on the adjournment date i.e. today the matter will be disposed off. In the first sitting the worker was absent up to 3.30 p.m., he did not turn up to the court. The advocate for M/s. Basin & Co., was present. It can be seen that the worker was removed from the service because he remained absent without permission. Here in this case also it appears that he does not want to proceed with the matter as he had not filed a statement of claim. The worker had not filed claim or the documents to show that the action of the management is not justified. In result I pass the following order :

ORDER

The action of the management of Air India now Air India Ltd., in awarding punishment of removal from service of Mr. R.N.

Thomare (Ex-loader) w.e.f. 5-5-89 for his absence without permission from 1-9-88 to 24-11-89 is legal and justified.

S. B. PANSE, Presiding Officer

नई दिल्ली, 5 जुलाई, 1996

का.आ. 2260.—औषधिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के भवित्व नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औषधिक विवाद में, केन्द्रीय सरकार औषधिक अधिकार, धनबाद-2 के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

[संख्या एल-20012/478/93-ग्राइंडर(कोल०-1)]
ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 5th July, 1996

S.O. 2260.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Dhanbad-2 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government.

[No. L-20012/478/93-IR. (Coal-I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (No. 2) AT
DHANBAD.

PRESENT :

Shri D. K. Nayak, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of I.D. Act, 1947.

REFERENCE NO. 8 OF 1995

PARTIES :

Employers in relation to the management of Moonidih Project of M/s. BCCL and their workmen.

APPEARANCES :

On behalf of the workmen : None.

On behalf of the employers : Shri B. Joshi, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 25th June, 1996.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(478)/93-I, (Coal-I), dated, the 21st February, 1995.

SCHEDULE

"Whether the action of the management of Moonidih Project of M/s. BCCL in reducing the rank of Shri S. C. Pal from Forman Technical Grade 'C' to Welder Cat. IV is justified ? If not, to what relief the workman is entitled ?"

2. In this reference notices were issued to both the parties. But only the management made his appearance through their Advocate Shri B. Joshi. Thereafter notices were again issued to the workmen but neither the workmen turned up nor took any steps inspite of the issuance of the notices to them. It therefore, leads me to an inference that the workmen are not interested to proceed with the case and presently no dispute is existing between them. In the circumstances, I am constrained to pass a 'No dispute' Award in the reference.

D. K. NAYAK, Presiding Officer

नई दिल्ली, 5 जुलाई, 1996

का.आ. 2261.—ओर्डोरिंग विभाव अधिकारी, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय तेल नि. के प्रबंधन के संबंध नियोजकों और उनके कर्मकारों के शीच, अनुबंध में निर्दिष्ट ओर्डोरिंग विभाव में, ओर्डोरिंग अधिकरण, गुवाहाटी के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

[संख्या एल-30012/17/86-ओ-3(बी)/कॉल-1]
दर्ज दोहन, इक्स्प्रेस अधिकारी

New Delhi, the 5th July, 1996

S.O. 2261.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Guwahati as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Oil India Ltd. and their workmen, which was received by the Central Government.

[No. L-30012/17/86-D-III(B)|Coal-I]
BRAJ MOHAN, Desk Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL.
GUWAHATI, ASSAM

Reference No. C. 5 of 1987

PRESENT :

Shri J. C. Kalita, B.A.(Hons.)LL.B.) Presiding Officer, Industrial Tribunal Guwahati.

In the matter of an Industrial Dispute

BETWEEN

The Management of Oil India Ltd., Noonmati Guwahati

Versus

Shri Anowar Hussain

APPEARANCES :

For the Management—Shri P. C. Deka, Advocate

For the Workman—Shri L. P. Sarmah

AWARD

The Govt. of India, Ministry of Labour, New Delhi, by a Notification No. L-30012/17/86-D-III (B), dated 9-4-87, referred an Industrial Dispute between the Management of Indian Oil Corporation, Guwahati Refinery, Noonmati, Guwahati and their workman Md. Anowar Hussain, Messenger, Guwahati Refinery, Indian Oil Corporation, Noonmati for adjudication with copies to the parties. On receipt of the Notification a reference was registered and notices were sent to the parties to appear and to file their respective written statement. Both parties filed their written statement.

The issue referred reads as follows :—

"Whether the action of the Management of Indian Oil Corporation, Guwahati Refinery, Noonmati, Guwahati-20 in terminating the services of Md. Anowar Hussain, Messenger, Guwahati Refinery, Indian Oil Corporation Noonmati, Guwahati-20 w.e.f. 23-4-86 is justified ? if not, what relief is the workman entitled to ?"

In his written statement the workman contended that he was appointed as Messenger on 28-7-83 on compassionate ground at the death of his father Tahir Ali. After completion of his probationary period he was confirmed in the post of Messenger and was placed in the Project Department. He was placed under suspension on 31-5-85 after drawing of charge-sheet on 26-5-85 on the allegation that in the overtime column of the attendance statement of the Project Department for the month of July/August, August/September, September/October of 1984 and December/January of 1985, the workman put some fabricated figures of overtime against the name of the workman though he did not do any overtime in the said months. It was further alleged that the workman tampered the said statement to deprive the company and to earn money in a dishonest way. In his statement the workman denied the charges stating that the overtime statements are prepared by other staff, his duty is to carry the papers from one table to another table. Not being satisfied

with his replies the management instituted an Enquiry to enquire the charges by appointing Sri D. Khound on 22-7-85 as Enquiry Officer. The Enquiry Officer found him guilty of the charges levelled against him and the management, by accepting the report, dismissed him from service with effect from 23-4-86. The enquiry was violative of the principle of natural justice as no reasonable opportunity was given to him to defend in the enquiry by engaging any Trade Union Leader. The action of the management is discriminatory, arbitrary and illegal.

The management in their written statement pleaded that the dispute referred is not an Industrial Dispute and is hit by principle of readjudicate in view of the order in Mice Case No. 4186 under Section 32(2)(b) of the Industrial Dispute Act holding the enquiry as unfair. There is system of overtime in the Company. Overtime done by the employees are recorded in overtime register. A statement is prepared on the basis of that overtime register by the Department in duplicate and the original is sent to the Accounts Department and the carbon copy is kept in the concerned Department. The Accounts Department calculated the wages for payment. It has been stated that all such documents and statements of Project Department are carried by the workman to the Accounts Department on 31-5-85 the employees of Project Department sent an information in writing to the Departmental Officer of the Project Department regarding the amount drawn by Md. Anowar Hussain in salary. On receipt of such information the Departmental Officer of the Project Department lodged a complaint suspecting foul play by Anowar Hussain. Then a charge-sheet was issued against him. The replies sent by Anowar Hussain was found not satisfactory. A domestic enquiry was instituted wherein he was found guilty of misconduct by the enquiry officer. During the enquiry the admitted handwriting of all the employees of Project Department together with the questioned documents were sent to Hand-Writing expert for examination and opinion. The Handwriting expert opined that the handwritings in the overtime statements were the handwritings of Anowar Hussain. By considering the report together with the documents the management concurred with the findings of the enquiry officer and dismissed him from service prior to which approval of the Industrial Tribunal was sought by filing an application under Section 22(2)(b) of Industrial Dispute Act. The Industrial Tribunal held the enquiry is fair. Hence the reference is liable to be dismissed.

The workman examined himself and the management examined two witnesses. There is an order to the effect that the evidences recorded earlier in respect of an application under Section 32(2)(b)

of the Act be accepted as evidence. Both sides pressed number of documents into service.

What I find from the case record is that the fairness of the domestic enquiry was held to be annuous by this Tribunal. Here the workman was dismissed from service on misconduct. In such a case the Industrial Tribunal has been empowered under Section 11 of the Act to satisfy itself. Whether misconduct is proved. Even if the domestic enquiry is held to be fair and proper the Industrial Tribunal can go into the question as to whether the finding given by the management is established by the materials adduced by the parties. The Tribunal has been given powers to see whether the termination of service of a workman is justified and to give appropriate relief, but in doing so it cannot act as a Court of appeal and substitute its own judgement for that of the management. It is an established principle of law, now, that in case of victimisation or unfair labour practice it is open to the Industrial Tribunal or Labour Court to go into the merit of the Case and to investigate whether the order of punishment is justified.

It is an admitted fact that the workman was appointed as messenger and was serving in Project Department at the time of alleged misconduct; and as a messenger his assigned duty was to carry the documents, files and other correspondence to other Departments. The charge reads as follows—"In the overtime column of attendance statement of the Project Department for the months of ~~July~~
August, August|September, September|October 1984 and ~~December~~
~~January~~ 1985 you put some fabricated figures of overtime against your name though you did not do any overtime work in the said months; such tempering of statement was done by you with a view to defraud the Company and to earn money in a dishonest manner.

The above acts alleged against you constitute serious misconduct under Clause 18(IV), (VII) and (XXVIII) of the certified standing orders. Clause 18 of the standing order provides which act on omission constitute misconduct. Clause 18(IV) contains theft, fraud, dishonesty in connection with the Company's business or property; Clause 18(VII) contains arriving on duty or being on duty under the influence of alcohol, drunkenness, riotous or disorderly behaviour within the Refinery area, or any act subversive of discipline and Clause 18 (XXVIII) contains negligence in discharge of duties.

In view of the allegation brought against him provisions of Clause 18(VI) have been found not attracted. The allegation also does not come under the provisions of definition of theft. This Tribunal is to see whether his actions amounted to fraud on

dishonesty in connection with the Company's business of property. The workman categorically denied the charges levelled against him.

The charge is based on written documents. Whether the figures in attendance statements are the writings of the workman. The allegation relates to overtime. The overtime done by the employees are recorded in the overtime Register. A statement is prepared on the basis of said register by the Department in duplicate, and sends the original copy of the statement to Accounts Department for calculation of overtime wages and the duplicate copy is kept by the Department concern. These statements are not prepared by the workman but by other staff of the office, the workman simply carries the statement so prepared to the Accounts Department.

There is no averment in the written statement nor there is any evidence from the management's side who actually maintains or notes the overtime hours in the overtime Register every day if any overtime is done by any employee. It is clearly mentioned that overtime statements are prepared on the basis of overtime registry. From the pleading of the management it can be definitely said that the overtime register is not maintained by the workman nor he prepared the overtime statement. Overtime register is not produced before this Tribunal; only the overtime statements are produced and exhibited. Ext. P. P(1), P(2), P(3) P(4) and P(5) are the attendance statement (overtime statement). These are the six original overtime statements and Ext. Ba, Ba(1), Ba(2), Ba(3), Ba(4) and Ba(5). Ba(6) are the carbon copies of the said original statements. Witness No. 3 of the management admitted in cross-examination that he does not know who has written these statements. There are two Columns of overtime—first one from 16th to 30th/31st and the 2nd one from 1st to 15th of the month as their salary sheets are prepared from 16th of the previous month to the 15th of the next-month. The statements contain the names all the employees of the Project Department against whose names overtime hours are noted. These statements bear the signatures of the Head of the Department. Sri S. G. Prasad was the Head of the Department. In cross-examination the workman admitted the signatures of S. G. Prasad on the overtime statements. It is not proved who has actually prepared these statements from the overtime register though there is a certificate "certified to be true" signed by the Departmental Head. Thereafter the attendance statements (overtime statement) are entered into Peon Book and are sent to the Accounts Department through the workman.

In comparing the carbon copies Ext. Ba(1), Ba(2), Ba(3), Ba(4), Ba(5), Ba(6), with the

original copies sent to the Account Department it is seen that some additional figures in the original statement in overtime Column of workman are written. Accounting to the management these figures in overtime Column are written while the statements are being carried by the workman, but there is no definite evidence that these are actually written by the workman. The workman specifically denied that these figures are written by him. So the burden heavily lies upon the management to prove that these figures are written by the workman. The Enquiry Officer at the time enquiry obtained the same figures found on the overtime Column of the statements in plain sheet in presence of the witness for examination and comparison by the handwriting expert.

Witness No. 2 of the management is the handwriting expert who deposed that Ext. Ta is his opinion and Ext. Ta(1) is his signature. He opined that the figures in questioned documents and the figures in admitted documents are the writings of the same person. By accepting the opinion of the handwriting expert management dismissed him from service. The learned counsel for the workman failed to dislodge this evidence. The learned counsel for the workman submitted that the opinion of the expert is an opinion and it needs corroboration by oral evidence. Expert opinion is not an authentic evidence. No corroborative oral evidence are here to support the evidence of the expert. The enquiry officer solely relied on the expert opinion and held the workman guilty of misconduct under Clause 18(IV) and 18(XXVIII) of the standing order. What can be concluded from the evidences on record is that an inference can be drawn that the questioned figures in the overtime statements may be written by the workman while it were in his custody in carrying it to Account Department.

Mr. L. P. Sarmah, the learned counsel for the workman submitted that similar charges were brought against Mrs. Deepali Kenowar and Shri P.C. Sarmah and they are exonerated from the charges. Management's witness No. 2 admitted that Mrs. Deepali Kenowar faced similar charges but he can not say the result of her enquiry and also the result of Sri P. C. Sarmah. They are now working in the office. He could not say if two increments of Sri P. C. Sarmah are stopped. The expert in his cross-examination stated that he was asked not to give opinion in other matters. He was asked to give opinion against Anowar Hussain only. It is in records that the questioned figures appearing against Anowar Hussain in overtime statements were got down in separate sheets by Anowar Hussain, P. Poddar, S. K. Majumdar and Deepali Kenowar which were sent for examination and opinion by the expert. Ext. 5 is the reply of Deepali Kenowar wherein she denied the allegation, but

in her last para it has been written that "every excess payment made to me due to such irregularity may be deducted from my salary." She is still in service of the Company. Mr. Sarmah submitted that the action of the management in dismissing the workman from service is nothing but victimisation as he was a member of Indian Oil Corporation Mazdoor Union, not recognised by the management in comparision to Mrs. Deepali Kenowar who is a member of the another Trade Union recognised by the management. The explanation given by the management in para 18 of their written statement clearly shows that the misconduct on the part of Mrs. Deepali Kenowar being related to two months only, She was demoted to next grade as she had admitted the offence and prayed for mercy with reference to her reply I have gone through the reply of Anowar Hussain (Ext. Ga) submitted in response to letter dated 5-6-85 (Ext. Ka). In his reply he also stated his ignorance how it had happened. "If there is any such excess payment to me during the said period, I am agreeable to refund the same without hesitation and prayed to waive the charge levelled against him."

In the light of the above discussions it is to be viewed whether the misconduct proved warranted dismissal of the workman from service when one (Deepali Kenowar) is retained in service by accepting her reply for the same allegation. Fraud or dishonesty in connection with the Company's business or property constitute misconduct as contemplated in Column 18(IV) of the standing order. Admittedly when no overtime is done, but there is record that the workman has done overtime as per overtime statements; such fabrication in writing on overtime statements may be treated as fraud or misconduct. Except the evidence of the Expert there is no positive evidence that the figures were, infact, written by the workman, but the fact remains that he has received the overtime amount drawn in his name which he intended to refund as claimed in his reply.

Clause 19 of the standing order provides the penalties for misconduct. Penalties are—(i) Fine (ii) Recovery from pay for the whole or part of any pecuniary loss caused to the Refinery by negligence. (iii) Reduction to lower service, grade, or post, withholding of increments, subject to provision of Payment of Wages Act, 1938, (iv) Suspension for a period of ten days, and (v) Dismissal without notice. Management in their written statement averred that Mrs. Deepali Kenowar was punished by reverting her to lower grade. When the carbon copies bears no such figures the figures found in the original overtime statements are definitely inserted after it was duly certified by the Departmental Head. Management alleges that the workman has done it while he carries it to Accounts Department, but where and how the figures against Deepali Kenowar are inserted when she has not carried it, the management remains

silent. This proves business. In both cases manipulation in figures was definitely done with dishonest intention to gain monetary benefits. As such punishment contemplated should be rational and judicious. Considering the pros and cons of the allegations in the light of the evidence on record, I find the order of dismissal of Anowar Hussain injudicious, irrational and discriminatory.

The learned counsel for the workman submitted that the order of dismissal is without jurisdiction as it was passed by an officer who has not appointed him. Ext. 3 is the appointment letter which was signed by the Personnel & Administrative Manager, Indian Oil Corporation. Now the question is who is competent to pass the order of dismissal. Clause I(d) of the standing order says—"the Head of the Department" means the person or persons notified by the Managing Director or by the General Manager as the case may be as the Head of Department for the purpose of dismissing or taking any other disciplinary action under these standing order. It has been made clear that the Head of Department has power to dismiss or discharge an employee. Ext. 7 is a notification issued by the management declaring few designated officers as Head of the Department in Project Department. Sr. Maintenance Manager is declared as Head of the Department under Clause I(c) any Departmental Officer notified by the General Manager or by the Head of the Department, may take disciplinary action other than dismissal and discharge. As a Departmental Officer, Dy. Manager (Project) has jurisdiction to draw up charge sheet.

Ext. 'Jha' is a letter dated 29-11-85 by which General Manager was requested to issue notification in favour of Deputy Manager (Project) Sri S. G. Prasad as Head of the Department under Clause I(d) of the standing order, but the notification, if issued, is not produced before this Tribunal. Enquiry proceedings of Mrs. Deepali Kenowar and Sri P. C. Sarmah were called for on the prayer of the workman. On going through it what I find is that Sri S. G. Prasad, Deputy Manager, Project passed the order of penalty on them. Had there been no notification in favour of S. G. Prasad as Head of the Department, he would not have being a senior officer, passed the order of dismissal in case of the workman, and penalty order in case of Mrs. Deepali Kenowar and P. C. Sarmah, judging from the angle, it can be reasonably inferred that such notification was definitely issued. The following decision 1992 Supn. (2)SCC 224; (1993) 1 SCC 419 and (1993) 1 SCC. 426, cited on behalf of the management were taken into consideration to come to a conclusion. Under Clause 1(d) of the standing order a person notified as "Head of the Department" can dismiss or discharge an employee from service. Here in this case it cannot be said that the workman was not dismissed by the Head of the Department. So I find the submission of Mr. Sarmah not acceptable.

The Enquiry Officer who held the workman guilty under Clause 18(iv) and 18(xxiii) also held guilty Mrs. Deepali Kenowar under the said Clause and Mr. P. C. Sarmah under Clause 18(v) 18(iv) of the standing order. The disciplinary authority is the Deputy Manager, Project, by accepting the enquiry report punished Mrs. Deepali Kenowar by withholding four annual increments, and her period of suspension was not treated as on duty without any remuneration for the period of suspension except the subsistence allowance. In respect of the P. C. Sarmah, two annual increments were withheld and his period of suspension was not treated as on duty without any remuneration for the period of suspension except what he has already drawn. For the same offence, reinstatement of two charge-sheeted employees and dismissal of the workman is highly discriminatory, and disproportionate when the nature of works performed by them are substantially different. Both Mrs. Kenowar and Sarmah are to perform clerical works. Whereas the workman is to carry the files, records from one table to another table etc.

So far as the punishment is concerned Mr. Deka relied on the following decision—AIR 1970 SC, 140, AIR 1985 SC, 1128, AIR 1984 SC, 976; AIR 1971 SC, 2414, and AIR 1991 SC, 1742. What I find from the cited decisions is that the Tribunal has two options either to reinstate or to award compensation. Mr. Deka submitted that the Company has lost faith on the workman, so he was dismissed from service. According to the company, there are fabrications of overtime hours in the overtime statements of the workman, and similar charge of fabrication of overtime hours in overtime statement was also against Mrs. Deepali Kenowar. Apprehension of fabrication of overtime hours is greater on the part of Mrs. Deepali Kenowar who discharges the clerical works than the apprehension on the part of the workman who simply carries the records from one Department to another Department. In the dismissal order it is nowhere stated that the workman was dismissed for loss of confidence. To substantiate this plea, loss of faith or want of confidence on the conduct of the workman should have been mentioned in the order of dismissal but infact it is not mentioned. So I find this plea not substantiable. The order of dismissal is nothing but victimisation. The penalty imposed by way of dismissal has been found harsh and disproportionate. Similar punishment as imposed to Mrs. Deepali Kenowar and Sri P. C. Sarmah would have met the ends of justice.

So I find the order of dismissal of Md. Anowar Hussain from service with effect from 23-4-86 unjustified and untenable in the eye of law. For the last 10 years he is no longer in service and has suffered both mentally and physically with loss of money. Considering the entire facts of the case the management is hereby directed to reinstate him forthwith in the service of the company. As a

penalty for misconduct he will not be entitled to any back wages but continuity of service shall remain unaffected.

I give this Award on this 6th June 1996 under my hand and seal,

J. C. KALITA, Presiding Officer

नई दिल्ली, 5 जुलाई, 1996

का. आ. 2262—ओरोगिक विवाद प्रधानियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार मैसेस बी. सी. सी. लि. के प्रबंधनवाले के संबंध तियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओरोगिक विवाद में, केन्द्रीय सरकार ओरोगिक प्रधानियम धनवाद नं. 2 के अनुपर को प्रकाशित करती है, जो केन्द्रीय सरकार को प्रस्तुत कुमा था।

[संख्या एल-20012/787/93-कोल-1]
बज मोहन, डेस्क प्रधानियमी

New Delhi, the 5th July, 1996

S.O. 2262.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Dhanbad No. 2 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Loyabad Colliery of M/s. BCC Ltd. and their workmen, which was received by the Central Government.

[No. L-20012/787/93-C-II]
BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri D. K. Nayak, Presiding Officer

In the matter of an Industrial Dispute under
Section 10(1)(d) of the I.D. Act, 1947
Reference No. 18 of 1993

PARTIES :

Employers in relation to the management of
Loyabad Colliery of M/s. BCC, Ltd. and
their workmen.

APPEARANCES :

On behalf of the workmen—None

On behalf of the employers—Shri H. Nah,
Advocate

STATE : Bihar

INDUSTRY : Coal

Dated, Dhanbad, the 25th June, 1996

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(4) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(787)/93-I.R. Coal-I dated the 9th March, 1993.

SCHEDULE

"Whether the action of the management of Loyabad Colliery in denying promotion to Shri Lekhan Prasad and 23 others (as per list enclosed) in Clerical Gr.-I is justified ? If not, to what relief the workmen are entitled ?"

2. At the very outset it is pertinent to mention that this Tribunal has not received the list of the workmen alongwith the order of reference. However, it reveals from the record of this reference that notices were duly served upon the parties. Only the management appeared and took steps through their learned Advocate Shri H. Nath. But the workmen neither turned up nor took any steps. Then again notices were sent to the workmen for their appearance. Inspite of the issuance of notices to them they neither appeared nor took any steps. It, therefore, leads me to an inference that the workmen are not interested to pursue their claim before this Tribunal as because there is no dispute existing between them presently. In the circumstances, I have no other alternative but to pass a 'No dispute' Award in the reference.

D. K. NAYAK, Presiding Officer

नई दिल्ली, 5 जुलाई, 1996

का.आ. 2263.—ओर्डोरिंग विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स सी.सी.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओर्डोरिंग विवाद में, केन्द्रीय सरकार ओर्डोरिंग अधिकरण, धनवाद-2 के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

[संख्या : एल-20012/164/90-ग्राइंडर कोल-I]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 5th July, 1996

S.O. 2263.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Dhanbad No. 2, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. C. C. Ltd. and their workmen, which was received by the Central Government.

[No. L-20012/164/90-IR (Coal-I)]
BRAJ MOHAN, Desk Officer.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT
DHANBAD.****PRESENT :**

Shri D. K. Nayak, Presiding Officer,

In the matter of an Industrial Dispute under Section 10(1)(d), Sub-Section 2(K) of the I. D. Act, 1947.

REFERENCE NO. 34 OF 1991**PARTIES :**

Employers in relation to the management of Dakra Colliery of M/s. C. C. L. and their workmen.

APPEARANCES :

On behalf of the workmen : Shri D. Mukherjee, Advocate and Shri K. Chakravorty, Advocate.

On behalf of the Employers : Shri B. Joshi, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 19th June, 1996.

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) and 2(K) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(164)/90-I.R.(Coal)-I, dated the 11th January, 1991.

SCHEDULE

"Whether the action of the management of Dakra Colliery of Central Coalfields Ltd. retiring Smt. Jogeshwari Nonia w.e.f. 7-10-1989 and not accepting her voluntary retirement application and also not offering employment to her dependant son is justified ? If not, to what relief the workmen is entitled ?"

2. In order to meet the reference the concerned workman filed W. S. stating that she is in service with effect from 4-11-1973 in permanent post at Dakra Colliery having good record of service.

3. Her date of birth was recorded as 4-11-1933 in the service register maintained by the then employer namely National Coal Development Corporation Ltd. at the time of appoint which was handed over subsequently to M/s. C. C. L.

4. She was terminated on 7-10-1989 on the alleged ground of superannuation by the management which is nothing but illegal and arbitrary though the concerned person submitted an application expressing her desire to retire voluntarily with a request to give employment to her dependant son Jai Govindon 20-11-1986.

5. No action was taken of such application. On the other hand she was stopped from service with effect from 7-10-1989 on the alleged ground that her date of birth is 4-11-1933. The concerned

workman made representation to the management but the management did not pay any heed. So she took shelter of the ALC(C), Ranchi but the conciliation proceeding failed and then the Ministry made this reference finding justification of the claim of the concerned workman for the determination of the reference as mentioned above and thereby the present workman prays for her reinstatement with full back wages with effect from 7-10-1989 and also to direct the management to accept voluntary retirement application, and to provide employment to her dependant son in the job with retrospective effect having all arrears of wages and consequential benefits.

6. The management in their W. S. cum-rejoinder has stated that the reference is not maintainable in law as the terms of reference is in respect of individual one and that does not come within the purview of Section 2(a) of the I. D. Act, 1947 and the same is liable to be dismissed on the said preliminary ground.

7. It is admitted that the concerned woman Jogeshwari Nonia ex-workman was an employee of Dakra Colliery of the management as a quarry loader and it was nationalised with effect from 1-5-1973 though the charge of the colliery was taken over by the Central Government by an ordinance with effect from 31-1-1973 and after nationalisation it was transferred to C. C. L. commonly known as N.C.D. C. Ltd. previously. Being this management as a private sector the question arisen in this case cannot be decided.

8. It is stated further that old and new Form B Register maintained in Dakra colliery were maintained in Dakra colliery under the Mines Act and the age of Jogeshwari Nonia was recorded as 40 years on the date of her appointment which was of course corrected subsequently by filing an objection in the form of amendment petition that wrongly it is written 40 instead of 45. It is added further that there was interpolation in place of 45 and it was made 40 in the register and by the then Dy. Personnel Manager Shri R. A. Ram who was issued with a chargesheet and proceeded with disciplinary action.

9. It is submitted further that in the record of the C.M.P.F. the concerned workman declared her date of birth as 4-11-1928 and her age was recorded as 45 years vide C.M.P.F. No. R-73-26.

10. In view of the fact that the date of superannuation is 60 years the concerned workman Smt. Nonia attained the age of superannuation on 4-11-1988 but due to interpolation of the record which was discovered later on she was superannuated with effect from 7-10-1989.

11. It is stated further that after introduction of V. R. S. in the year 1986 it was settled that the said scheme can be availed of by the workman who would be in the age group of 45 and 55 years and who were medically unfit and in that case their dependants may be employed in their place. But in view of the fact that the date of birth of the concerned workman was 4-11-1928 though it was changed subsequently to 4-11-1933 by R. A. Ram

Smt. Nonia exceeded the age of 60 years thereby there was no scope of her getting the benefit of V.R.S. and refusal of employment to her dependant son in her place was in consonance of law and in the meantime she retired and thereby both for the legal and factual ground the action of management is justified and the concerned workman is not entitled to get any relief as prayed for.

12. In the rejoinder it is stated that Jogeshwari Nonia is not a workman within the meaning of Section 2(s) of the I. D. Act and as Smt. Nonia superannuated on 7-10-1989 no scope of accepting her V. R. was and thereby there was no reason to give employment to her son as prayed for pursuant to the false entries made in the Form B Register prior to 1933 in place of 28 in connivance with the officer of the management who was chargesheeted for this act. It is denied that in the proceeding before the ALC(C) the conciliation failed for the adamant attitude of the management but it failed as the matter did not come within the scope of Section 2(s) or Section 2(K) of the I.D. Act and thus again finally prays for decision of the reference against the concerned workman.

13. In the rejoinder the concerned workman has stated that this case comes within Section 2(s) and 2(K) of the I. D. Act and it is false to say that any interpolation was made in the official record as alleged as regards date of birth of the concerned workman and there was no manipulation in the Form B Register or anywhere so there was no scope of attaining the superannuation of the concerned workman on 4-11-1988. So all those facts alleging interpolation etc. are myth and those should be discharged.

14. In this case the management had examined one witness Shri D. N. Sharma and exhibited three documents namely, Ext. M-1, M-2 ad M-2/1. On the other hand the workman has not examined any witness but has exhibited three documents as Ext. W-1 and the signatures thereon as Ext. W-1/1 and W-1/2.

15. On careful scrutiny of the reference I find that there are three parts in the reference and those as follows :—

1. Whether the action of the management of Dakra Colliery of M/s. C. C. L. retiring Jogeshwari Nonia with effect from 17-10-1989 is justified ?
2. Whether not accepting the voluntary retirement application is justified ?
3. Whether not offering the employment to her dependant son is justified.

After deciding those three points lastly the reference calls for a decision what reliefs are entitled to by the concerned workman ?

16. In the premises of the said three points of the reference I am of the opinion that the decision upon the first point of the reference is vital another words the decision of the other points of the reference follows the decision of the first point of the reference.

17. In the written argument, it is stated therein that this reference is not maintainable in view of the provision of the I.D. Act as it is not sponsored by any sponsoring union but it is an individual dispute or that the dispute is not within the ambit of the I.D. Act. In my opinion, there is no such a case.

18. Another case law has been cited by the management in this context reported in 1994 Lab. & Indus. Ltd. vrs. 8th Indus. Co. Ltd. reported in 1994 Lab. & Indus. Ltd. vrs. 8th Indus. Co. Ltd. page 56 N.O.C. where it has been decided that in case of alleged resignation if any decision be taken by the Management and the employee is terminated then the said "voluntary" retirement cannot be considered to be termination and that does not come within the purview of Section 2(a) of the I.D. Act.

19. Another case law has been cited by the management in this context reported in 1977 Lab. Indus. Ltd. 154. It is not necessary to go into the same.

20. In reply to that from the side of the workman a case of Agra Electric Case reported in S.C.C. 1983 page 436 has been referred to where the scope of Industrial dispute within the ambit of Section 2(a) has been decided and where it is decided that any kind of termination/resignation will come within the scope of Section 2(a) of the I.D. Act.

21. Be that as it may let us consider initial aspects of this case which will guide us to the other points for proper legality and adjudication.

22. The crux of the problem in this case which invites my decision at the very outset and which will permit us to proceed further is that what was the date of birth of the concerned workman and the adjudication on that point will decide the fate of the entire reference.

23. At the instance of the management that the date of birth of the concerned workman Jageshwari Nonjania is 4-11-1928 instead of 4-11-1933 and I am of the opinion that this point is to be decided giving utmost priority.

24. It is needless to say before going into the oral evidence adduced by the management even in absence from any oral evidence from the side of the workman let me see the relevant document exhibited in this case.

25. My attention has been drawn to Ext. M-1 which is the photo copy of the salary and nomination register of Dakra Colliery of C.G.L. under C.M.P.F. Scheme. Against Sl. No. 1116 the name of the concerned person Smt. Jageshwari Nonia appears where her age is written as 45 years and date of birth is noted as 4-11-1928. Similarly in Ext. M-2 as against Sl. No. 1982 which is the photo copy of Form B Register I find that the age is written as "40" after interpolating the figure "45" which is palpable one. Again Ext. M-2/1 also shows Sl. No. 1599 where the age of the concerned person has been interpolated and written as "40".

26. In this context let me see Ext. W-1 the service register of N.C.D.C. Ltd. where the date of birth is written as 4-11-1933. But the applications for employment submitted by the concerned workman I find that initially the date of birth was written

as 4-11-1928 which was scored through and written as 4-11-1933 and his date of joining was also scored through and written as 4-11-1973 instead of 4-11-1971. Now the point is there is no explanation from the side of the Workman as to what mistake happened and what was the reason of recording the age in Ext. M-1 as 4-11-1928 instead of 4-11-1933. In the first place I may clarify that in Ext. M-2 it is needless to say that this document is the initial document and there is no over writing or scoring through but in all other documents I find neither it was over-written or it was scored through and subsequently figures were incorporated therein.

27. No doubt the entries in the Form B Register maintained under the Mines Act has weight but it is a settled principle of law that if any document be over-written and interpretation made it loses its evidentiary value and when Ext. M-2 clearly shows that age of the concerned workman was over-written and interpolated by way of writing "40" instead of "45" which differs from the initial document Evt. M-1 I reject the evidentiary value of Ext. M-2 after holding that the age as interpolated by somebody at any point of time for the obvious reason though the means could not manage the figure in such a manner which causes no difficulty to decipher the initially written "45". In that case taking into consideration of Ext. M-1 and Ext. W-1/1 where also the date of birth was initially written as 4-11-1928 and rewritten as 4-11-1933 after scoring the first entry and changing also the date of joining into the service to the extent of 2 years. So I have no hesitation to hold that there was an attempt to change the date of birth from 4-11-1928 to 4-11-33 and the age from 45 years to 40 years while she entered into the service but this palpably is palpably clear that the said attempt was only to create a fabricated document as thereby it is held beyond reasonable doubt that the date of birth of the concerned workman was 4-11-1928 and the date of her joining into the service was 4-11-1971 and there was subsequent attempt to change it but could not manage finally and thereby the said date of age i.e. 4-11-1928 is accepted to be the date of birth of the concerned workman and the superannuation has to be made calculating the same to be the date of birth of Smt. Nonia. In this connection I may refer to the relevant authority cited in Part I of the judgment.

28. It is not disputed that according to N.C.W.A. scheme which was prevalent for absorption of dependent if she/he retired from the service being medically unfit or otherwise or the benefit under V.R.S. in between the age group 45-55. Ext. W-1/1 goes to show that the application for employment of dependent was made on 20-11-1988 and on that date the age of Smt. Nonia was obviously beyond 58 years and thus she was not entitled to get the benefit of the N.C.W.A. scheme as claimed.

29. In this premises incidentally if may be referred that the present position of law has changed to certain extent by the judgement of different Hon'ble High Courts and some restrictions and conditions were imposed for the implementation of the provisions of N.C.W.A. and the circulars thereto for the

appointment of the defendant specially due to the decision that except the ground mentioned therein the said provisions of N.C.W.A. are unconstitutional.

31. Of course in the instant case the position of the case is otherwise as because there is no scope of consideration of that point when it is held that the date of birth of the concerned lady was 4-11-1928 and she did not come within the age group of 45-55 while she applied for the job of his dependant son on 20-11-1986. A question may arise that she retired from the service on 7-10-1989 though according to her date of birth she retired on November, 1988 but there is explanation from the side of the management that there was an interpolation which was subsequently detected and the concerned officer was chargesheeted for the same irrespective of the result of the said proceeding.

32. Even if we make arithmetical calculation on the concerned lady cannot remain in service beyond 4-11-1988 on which date she completes 60 years of age and the service beyond that is a way excess no doubt for the latches on the part of the management concerned but that does not give her right to continue in service upon such interpolated document and interpolated age giving a go-by the correct age as it appears in the initial document as already referred to. In view of the discussions made above and facts revealed in the instant case it cannot be said that the action of the management of Dakra Colliery of M/s. C.C.L. retiring Smt. Jogeshwari Nonja with effect from 7-10-1989 was unjustified rather it can be said that the action of the management was justified one though to some extent belated one. I have already discussed that holding the date of birth of Smt. Nonja to be 4-11-1928 she had no opportunity to adopt voluntary retirement scheme and thereby the management was right by not accepting her voluntary retirement application and as she continued in service more than the term to which she is entitled to as per her date of birth without demanding refund of the excess wages enjoyed by her denying employment to her dependant son even on her retirement the action of the management was justified and thereby the concerned workman is not entitled to get any relief in any form as prayed for. Accordingly the reference is disposed in favour of the management holding that the action of the management mentioned in the reference are fully justified and no claim there can be on the part of the concerned lady and thus this reference is disposed off against her.

This is my Award.

P. K. NAYAK, Presiding Officer

नई दिल्ली ५ जूलाई १९७६
का आ २२२६४.—प्रौद्योगिक विवाद प्रधिनियम १९४७
(१९४८ का १४) की थारा १७ के प्रतिसरण में केन्द्रीय सरकार मैसरी वी सी एल के प्रबन्धकलन के संबंध नियोजकों और उनके कर्मकारों के बीच अमुक्त में निहित प्रौद्योगिक विवाद में, केन्द्रीय सरकार प्रौद्योगिक प्रधिकरण

BRAJ MOHAN: Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DELHI ON THE PRESENT.

Shri B. K. Navak, Presiding Officer

the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947, Reference No. 9 of 1987

PARTIES.

Employers in relation to the management of
Dharmaband Colliery of Messrs. Bharat
Coking Coal Limited and their workmen.

APPEARANCES:

On behalf of the workmen—Shri D. Mukherjee,
Secretary, Bihat Colliery Kamp Union
On behalf of the employers—Shri B. Joshi

STATE : Bihar **INDUSTRY : COTTON**

Dated, Dhanbad, the 18th June, 1996

AWARD

The Govt. of India Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947, has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/206/86-D.H.A. dated the 2nd January, 1987.

SCHEDULE

"Whether the demand of Bihar Colliery Kumar Union that the management of Dharmaband Colliery of M/s. Bharat Coking Coal Limited should give employment to the dependant son of their workman, Smt. Lukhu Mahatain, Shale Picker who was reported to have been declared medically unfit for duties on account of suffering from leprosy, is justified in terms of Clause 9.4.3 of the National Coal Wage Agreement III? If so, to what relief is the said "dependant" entitled?"

2. For the adjudication of the aforesaid reference the W.S. has been filed for the workman Lukhu Mahatain, through the sponsoring union stating inter alia that Lukhu Mahatain was declared medically unfit by the doctor of the company and she was found suffering from Leprosy resulting loss of his permanent nature of job. It is further stated that in view of provision of NCWA-II para 10.4.3 and NCWA-III para 9.4.3 the defendant of the medical unfit employee is entitled to get employment in the management. It is stated further that many defendants have been employed as per the said rules but in the instant case in order to victimise the concerned workman the defendant of Lukhu Mahatain was not absorbed as he was affiliated to Bihar Colliery Kamgar Union. So the matter was brought to the notice of the ALC(C) for conciliation of the dispute but as the conciliation failed and the present reference arose for determination whether the defendant of Lukhu Mahato who was shale picker and who was declared medically unfit is entitled to get job in terms of clause 9.4.3 of the NCWA.

3. In the W.S. filed by the management it is stated that this reference is not legally maintainable as it is not a dispute under Section 2(k) or 2(s) of the I.D. Act. Actually it is stated that the concerned workman was a casual shale picker for sometimes and she voluntarily left the work in the year 1976 and being casual worker she had no right to be provided in any way by giving any job to her defendant.

4. Generally casual worker is not entitled to get a job regularly. So the question of providing her defendant does not come in and that has been decided in different judgements of High Court and thereby the claim of the concerned workman is unjustified.

5. In the rejoinder it is not disputed that the Lukhu Mahatain was in the employment and she managed to get herself examined by a single medical officer of the Govindpur Area and due to her permanent invalidity she lost her job but thereby no question arises for absorbing her defendant nor the law supports it.

6. In the rejoinder the workman has stated that the case is not hit by Section 2(k) or 2(s) of the I.D. Act and it is false to say that Lukhu Mahatain absented herself from the job since 1976 and the job done by her being shale picker was of permanent nature and the name of Lohu Mahato in was also in the roll of the company in the year 1983 and thereby it will be considered that she was in service till that date.

7. At the very out set I cannot but commit as the case was old one it was conducted most half heartedly by the parties and even they did not exhibit the relevant documents nor produced documents which are to be looked into and obviously that will draw an adverse inference against both the parties.

8. The Tribunal cannot take the roll in the lawyer or the representative of any party nor he can import anything but he has to decide the case upon the mate-

rials which is on record keeping in mind the probability befitting with the circumstances.

9. The workman has examined two witnesses one is Mukhiya and other is the son of Lukhu Mahatain as Lukhu Mahatain had expired in the meantime. On the other hand the management examined one witness who is Shri S. S. Prasad.

10. It is pertinent to mention that WW-1 who is the Mukhiya was brought by the management for examining him. But the reason best known to the management they refrained from examining him and thereafter he was cited as a witness and examined on behalf of the workman. This fact is corroborated from the facts in his chief that he was served with a letter or notice for evidence on behalf of the management and accordingly he came to the Court. From his evidence it has transferred that being Mukhiya he is acquainted with Lukhu Mahatain and her son WW-2. He denied the suggestion that WW-2 is not the son of Lukhu Mahatain, and from the trend of the evidence it appears that he was brought by the management for identification of the present person who is claiming to be the son of the concerned workman Lukhu Mahatain.

11. WW-2 Gulab Mahato claiming to be the son of Lukhu Mahato had deposed that it is myth to say that her mother was expelled from the service in the year 1976. On the other hand it is stated that she was medically examined and found to be unfit being so examined and she had identity card etc.

12. In the evidence of MW-1 in examination-in-chief it appears that Lukhu Mahatain worked till 1975 as it appears from the Bonus Register marked Ext. M-1 and her name was struck off from the roll on and from 31-3-76 and he has stated further that in the Notice Board it was so displayed and it was communicated to the sponsoring union and to prove the same he has referred to Ext. M-2. According to this witness the concerned workman was a casual worker. But he has been constrained to admit that the work done by her was of permanent nature and he has also admitted that Form B register is the register from where the date of appointment of an employee or the date of stopping the work in which manner are noted. He has of course denied that this register marked Ext. M-1 is not bonafide one.

13. It is settled principle of law that in Tribunal though the principles of the Civil law, Evidence Act etc. would be followed but not in pedantic manner and thereby though any paper be not marked or exhibited but finds place in the record that can be looked into for proper adjudication if it appears that existence of the same is not disputed. In the instant case it is not disputed that Lukhu Mahatain was a workman of the management irrespective of her nature of work and she was a patient of Leprosy and from the letter dt. 27-9-1980 having reference No. DC|P|Casuat|80|4062 written by the Agent, Dharmaband Colliery addressed to the General Manager, Govindpur Area it appears that Lukhu Mahatain and another one were examined by Dy. Medical Supdt. Govindpur Area and they had been declared medically unfit on the ground that they were the patients

of Leprosy. Furthermore, recommendation was made to consider their case on humanitarian ground.

14. From the management side it has been tried to show that it is a manipulated document. But my point is that the onus lies upon the management to establish the said fact and if that remains uncontroverted that stands on the way of the management's case and the concerned workman will get the benefit of the same.

15. Now the point is that how long the said workman worked in the colliery. There is no paper filed from the side of the workmen to establish the same but the letter as referred to above atleast draws a presumption that she was in service in the year 1980 otherwise how she got the opportunity to be examined by the doctor of the colliery and recommendation of the Agent for treating her case on the humanitarian ground come in. All other details have also been sent to the Manager as it appears from the said letter.

16. We cannot ignore that Form B register is the document which reflects the details of the workman, nature of service, date of stopping of work, reason and stopping if it is untimely and date of superannuation if it is in due course and other details. That fact has been admitted by MW-1. But for the reason best known to the management the same was not produced by the management nor it is stated that there is some cogent reason for non-production of the same. Thus we can safely say that Under Section 114(g) of Evidence Act we can draw an adverse inference that as the case of the management will not support that the concerned workman left the job in the year 1976 the same was not produced. Therefore, I accept that atleast till 1980 Lukhu Mahantain was in service and she was found medically unfit declared by the doctor of the colliery itself.

17. It is not disputed that even for the sake of argument it is accepted that she was a casual worker she should be considered to be a workman under clause 7.1 of Certified Standing Orders for workmen establishment under BCCL and we have to see whether the job was of permanent nature irrespective of the fact that the workman was casual one.

18. We cannot ignore that the job performed by the concerned workman was of permanent nature.

19. Thereby in view of such fact the dependant of the said workman who expired in the meantime but filed reference before hand should be given job of casual nature even after observing the formalities in this regard and the refusal to give that obviously is unjustified, as per terms of clause 9.4.3 of NCWA-III. So a direction should be given to the colliery concerned that one dependant should be absorbed as casual worker in the concerned management on receipt of an application through the sponsoring union being identified by the said union and after proper verification by the management as per rules and observing the other formalities of giving job in the management as we do not find that any application was made by the dependant to get the job on the ground that her mother was found medically unfit and he is entitled to get the job as dependant as because though he is entitled to get so. But the management

cannot run after the dependant to give job if no such prayer be made before them.

20. Accordingly it is decided and ordered that refusal of the concerned workman to absorb the dependant would apply with such prayer to the management provide with a job of Casual nature as Lukhu Mahantain requires to be proclaimed unjust when her mother was declared by the doctor to be unfit during her service time with further direction that the said dependant would apply with such prayer to the management through the sponsoring union within one month from the passing of the Award and the management will absorb him as causal worker in minimum category on the humanitarian ground coupled with the rule of NCWA-III within one month from the date of receipt of application subject to verification and observing the formalities in the matter of employment of a particular person provided in the rule.

This is my Award.

18-6-96

D. K. NAYAK, Presiding Officer

नई दिल्ली, 5 जुलाई, 1996

का. आ. 2265—प्रौद्योगिक विवाद प्रधिनियम 1947(1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भैससे इंडियन फ्रायरन एंड स्टील क. लि. के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट प्रौद्योगिक विवाद में, केन्द्रीय सरकार प्रौद्योगिक प्रधिकरण धनबाद-2 के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को को प्राप्त हुआ था।

[संख्या एल 20012/300/92 (बाई आर) (कोल-I)]

ब्रज मोहन, ईस्क प्रधिकारी

New Delhi, the 5th July, 1996

S.O. 2265.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Dhanbad No. 2 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Indian Iron & Steel Co. Ltd. and their workmen, which was received by the Central Government.

[No. L-20012/300/92-IR. (Cont-I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD.

PRESENT :

Shri D. K. Nayak, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 85 OF 1995

PARTIES :

Employers in relation to the management of Chasnalla Colliery of M/s. Indian Iron & Steel Co. Ltd. and their workmen.

APPEARANCES :

On behalf of the workmen : Shri D. Mukherjee,
Advocate, and
Shri K. Chakravorty,
Advocate.

On behalf of the employers : Shri B. Joshi,
Advocate.

STATE : Bihar, **INDUSTRY : Coal**
Dhanbad, the 19th June, 1996

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(300)92-I.R. Coal-I, dated, the 22nd May, 1995.

SCHEDULE

"Whether the action of the management of IISCO Chasnalla North Mine Colliery in dismissing Shri Kamleshwar Singh (Pass No. 8175) Shovel Operator w.e.f. 1-12-92 is justified ? If not, to what relief the workman is entitled to and from which date ?"

2. On receipt of notices the workmen filed W.S. stating the following facts.

He has been working as Shovel Operator having unblemished record of service since long past and he became eyesore of the management as he took membership of the union which is not in the good book of the management and that arose hatching up a plan for his removal from the service and consequently he was served with a chargesheet dt. 2-6-92 upon the allegation of abusing Shri Sharma, Asstt. Supdt. North Mine Over telephone though the said allegations was baseless false and motivated.

3. The concerned workman replied to the said chargesheet stating several facts and also raising the validity and legality of the same but without accepting his explanation an enquiry took place and due to the perverse and biased view of the enquiry officer he was found guilty of the charge basing upon the evidence which are far away from the truth.

4. The chargesheet was issued by a person and enquiry officer appointed by such an officer who was not authorised to do so which leads to the illegalities of the entire proceeding irrespective of the fact that the enquiry was held in violation of the principles of the natural justice having biased and prejudice judgement against the concerned workman, though it was objected to by the concerned workman on several occasions this matter.

5. In such invalid and irregular enquiry holding the charge to be established this workman was recommended and dismissed from service on and from

1-12-92 which was also done by an unauthorised person. Thereby the said order of dismissal is illegal without foundation, arbitrarily and in violation of the Industrial Dispute Act which arose the present reference in which this Tribunal is to adjudicate whether the action of the management of Chasnalla North Mine of M/s. IISCO in dismissing the concerned workman with effect from 1-12-92 is justified and if not what relief can be awarded to him ?

6. Lastly irrespective of challenging the illegality and validity of the enquiry it is stated by the concerned workman in his W.S. that the imposition of punishment of dismissal of vindictive nature and anti-labour policy being too harsh and disproportionate to the alleged offence.

7. In the W.S.-cum-rejoinder on behalf of the management it is narrated that one Kamleshwar not Kamleshwar Singh as stated in the reference was dismissed from service with effect 1-12-92 and thereby no adjudication can be made in respect of his grievance in the present dispute.

8. Be that as it may, they submitted the W.S. referring the name of Kamleshwar Singh and narrated the facts related to him without prejudice to their rights in this matter.

9. So far reply of the fact is concerned it is submitted by the management that the Kamleshwar Singh committed a serious misconduct on 1-6-92 while he was on duty within the colliery premises and for the same he was issued with a chargesheet dt. 2-6-92 under the signature of Sri C. R. Chakravorty, Supdt/ Mine Manager of Chasnalla North Mines under whose jurisdiction the concerned workman was a Shovel Operator and working therein in the said capacity.

10. The main allegation against the concerned workman Kamleshwar Singh is that while he was in 'B' shift duty commencing from 3 P.M. and ending at 11.00 P.M. at about 6.45 P. M. on 1-6-92 he left his place of work and entered into the office of the Superintendent of North Mines, telephoned Shri R.C.K. Sharma, Asstt. Supdt. North Mine while he was bunglow using filthy language to him over the phone which germinated the chargesheet leading to the misconduct of such behaviour of the concerned workman to the superior officer.

11. The concerned workman was charged for commission of the misconduct under clause 18(i)(p) and 18(i)(r) of the Certified Standing Orders of the concerned colliery and he was kept under suspension with effect from 2-6-92 under the signature of C. R. Chakravorty, Supdt/Manager of Chasnalla North Mine. To that chargesheet the concerned workman submitted reply having dated 5-6-92 and supplementary reply dt. 9-6-92 denying the allegations of the chargesheet. Then a domestic enquiry took place as per order of the competent authority Shri M. P. Sinha who appointed representative of the management and notice was given to Shri Kamleshwar Singh fixing 12-6-92 at 4 P.M. as the date of enquiry at Central Office Chasnalla. In the said enquiry commencing from 12-6-92 and continued on different date and finally concluded on 6-12-92

where from the side of the management Shri R.C.K. Sharma, Assistant Supdt. (Mines), Shri Hanuman Prasad Sharma, Jr. Manager (Mining) working as shift incharge and Shr Satyen Singh, worker were examined. The concerned workman was permitted to appoint a co-worker of his choice to assist him for his defence and thereby he was given opportunity for putting forward his say and the enquiry took place in all possible fair manner giving full opportunity to cross-examine the management's witnesses and it was also done from the side of the concerned workman. It is added further that Shri Satyen Singh, MW-3 was threatened by Kamleshwar Singh the concerned workman resulting his inability to attend the enquiry on subsequent date and thereby his cross-examination could not be completed and his evidence was expunged. Also the concerned workman examined four witnesses and after observing all legal formalities the enquiry was concluded and the report was submitted to the Supdt. North Mine Manager of Chasnala North on 9-11-92 and pursuant to the said report after scrutiny and accepting the same the said Kamleshwar Singh was dismissed from service by a letter dt. 1-12-92 under the signature of C. R. Chakravorty, Supdt Manager, Chasnala North Mine who was the competent authority to do so. So the action taken by the management was fully in accordance with law and justified and under these mitigating circumstances it is a futile attempt on the part of the concerned workman to pray for the lesser punishment than that of dismissal order against him.

12. In the rejoinder the different paras of the W.S. filed by the concerned workman were denied in general form keeping the line of their original W.S. intact supporting the order of dismissal to be justified.

13. The concerned workman filed the rejoinder to the W.S. of the management stating inter alia that there is no scope of challenging the reference to be illegal and practically due to typographical mistake in the reference order of the Ministry the name of Kamleshwar Singh which has been typed instead of Kamleshwar Singh and that fact is supported and corroborated by all other circumstances and the facts appearing in the instant case and that is also accepted by the management by their W.S. itself by way of stating all the facts relating to Kamleshwar Singh as they understood that the reference is in respect of the workman Kamleshwar Singh and not Kameswar Singh which has been typed inadvertently in the reference.

14. Again in other paras most of the facts stated earlier have been stated but in para-7 it is stated that the enquiry was conducted in most illegal and arbitrary manner which has also been stated earlier and the same thing has been repeated that report of the enquiry officer is not supported by legal evidence and prayed reliefs as already prayed in the first W.S.

15. At the very outset let me refer order No. 10 dt 10-1-96. It was accepted by both the parties specially the concerned workman through Mr. D. Mukherjee, learned Advocate for the workman that the workman does not challenge the fairness and

propriety of the enquiry where Mr. Joshi, learned Advocate for the management was present and thereby it was accepted and ordered that the enquiry was fairly and properly held and in view of that finding let us proceed of the hearing of the case of the reference in question with reference to the materials available in the domestic enquiry proceeding having our right of scrutiny given by the I.D. Act itself.

16. In the instant case both the parties have filed their written argument at the initial stage and thereafter due to anomaly of the name of Kamleshwar Singh and Kamleshwar Singh an order was passed by this Tribunal by Order dt. 10-4-96 and in response to the said order further written argument was submitted by the concerned workman stating that it is palpable there is typographical error in the reference and that will go to show that the reference is for the workman named Kamleshwar Singh and not Kamleshwar Singh.

17. Accordingly let us decide the case and adjudicate the reference upon the facts and materials available on record with reference to the legal position in this matter.

18. Already I have pointed out that both the parties have submitted their written argument. In view of the reference the management is to justify the order of dismissal initially and then the onus will shift upon the workman to justify his defence. At the very outset I am to decide the preliminary question whether I can enter into the adjudication of this reference for the cause of Kamleshwar Pd. Singh in place of Kamleshwar Pd. Singh as it appears in the reference itself.

19. It is contended by the learned Advocate Mr. D. Mukherjee for the workman that from the very face of the W.S. filed by the management and the enquiry proceeding and other facts emerging from the contention of the management itself it is crystal clear that the name used "Kameswar Singh" in the reference having Pass No. 8175 is nothing but typographical mistake and it would be read as Kamleshwar Singh instead of Kamleshwar Singh and it was added further the judgement passed by Hon'ble High Court in connection in C.W.J.C. No.1221/93(R) the same point arose and it was decided by the Hon'ble High Court confirming the decision of Tribunal Court No. 1, Dhanbad in Ref. No. 105/90 that the Court has ample power to correct such mistake if it appears from the other facts that it is nothing but a clerical and bonafide error.

20. Keeping in mind the said legal decision of the Hon'ble High Court on this relevant point and also considering the written statement as well as other facts I am of the opinion that though it was challenged by the management in the first part of their W.S. but ultimately the trend of evidence led in the domestic enquiry and the written argument submitted by them does not appear to oppose the said matter.

21. I have carefully perused the written argument of the management and heard also the learned Advocate Mr. Joshi with reference to the said written argument but nowhere it finds place that the actual

workman of the concerned workman is Kamleshwar Pd. Singh not Kamleswar Pd. Singh which has contended by the learned Advocate for the workman and thereby my later decision to re-ear the matter wipes out the anomaly and we can take it that this reference is for "Kamleshwar" and not for Kamleshwar and the said mistake in the reference itself sent by the Ministry is nothing but the typographical mistake amounting to clerical and bonafide mistake.

22. Now let us come to the summary of the written argument on behalf of the employers.

23. It is the specific argument of the management that the chargesheet issued against the concerned workmen dt. 2-6-92 amounts to serious misconduct for abusing and threatening Shri R. C. K. Sharma, Asstt. Supdt. of North Mines and his conduct is charged under clause 18(i)(p) and clause 18(i)(r) of the Certified Standing Order of Chasnala Colliery.

24. It is also contended that when the enquiry was held fairly and properly and the charge was established against the concerned workman the order of dismissal with effect from 1-12-92 does not suffer from irregularity or illegality nor it vitiates in law.

25. It was contended in the written argument confirming oral argument that the decision cited by Mr. D. Mukherjee, learned Advocate for the workmen decided by the Hon'ble Supreme Court in case of Ved Prakash Gupta versus M/s. Delton Cables India (P) Ltd. reported in SCLJ Vol. 84—87 and another case reported in SCLJ 88—90 at page 1392 relating to a case of Scooter India Ltd. versus Labour Court are not applicable in this particular case.

26. His main argument is that the charge levelled against the concerned workman in the earlier case does not stand on the same footing as this charge of this particular case is. It is quoted herein that in the said case actually charge of loss of basic courtesy which requires to be shown to a responsible member of a security staff and the charge therein was only on total loss of confidence to the officer. Thereby it was argued by Mr. Joshi that in the said case the abuse was in course of hot exchange of words which may provoke him to use such words and thereby the Hon'ble Supreme Court held that the punishment was not proper specially holding that he was given full opportunity to take part in the enquiry and so order was passed for reinstatement of Ved Prakash with full back wages with further observation that the order of dismissal was disproportionate to the misconduct if the same would have been proved.

27. Mr. Joshi also distinguished the later case arguing that the order of reinstatement with 75% of back wages in the said case though held as misbehaviour even after abusing the officer with filthy language and threatening the controlling officer by words. But was further held that this was done by the workman out of provocation. But not in pre-planned way with a view to cause insult and annoyance and to cause mental torture. To threaten the superior officer brings him the charge of insubordination which according to the order of the Hon'ble Supreme Court is

insubordination which is highly serious and the order of dismissal in such case is appropriate punishment.

28. In order to fortify his submission my attention has been drawn to the case of Indian Marine Services (P) Ltd. versus Their workmen reported in SCLJ Vol. II at page 1403.

29. In the said case Their Lordships held that abusing and using harsh words amounts to insubordination and in such case punishment of dismissal is the appropriate penalty.

30. Another case reported in SCLJ Vol. 12 at page 192 in the case of Eastern Electric & Trading Co. versus Baldev Lal was cited before where it is held that no commercial firm can tolerate any employee when it appears that he insults any customers of the said firm and for the said charge and for the said act if he uses filthy languages to any of the superior officer of the firm, dismissal is the only and appropriate punishment for his said act and it was discarded by the Hon'ble Supreme Court that this kind of punishment is disproportionate one.

31. In another case of Hon'ble Supreme Court reported in SCLJ Vol. XV at page 311 in the case of Lalaram-versus-DCM Chemical Works Ltd. the Hon'ble Supreme Court has held that for abusing the officer coupled with threat to him is a serious misconduct and imposition of dismissal order to the said workman cannot be said illegal and unjustified.

32. Thereby it has been argued that in the instant case when it is established beyond doubt that the concerned workman used abusive language to the Asstt. Superintendent of the colliery who is nobody than the Controlling Officer and Incharge of the management and who has control supervision and direction of the Mines any act humiliating or abusing him in course of hot exchange of words even in a pre-planned manner with a view to insult him and threat with dire consequences on the next day are serious type of misconduct and amounts to insubordination and for the safety and security and smooth running of the management if this punishment be not imposed it would be dangerous on the part of the management to run the establishment and that will encourage the other workers to become unruly and thereby the order of dismissal of the concerned workman from the service is proper and justified and in no way it can be said to disproportionate and the thus submitted for the disposal of the reference in favour of the management.

33. I am constrained to observe that nowhere in the written argument nor in course of oral submission I have got the opportunity to see or know what words actually used by the concerned workman and whether any threat in the manner as observed by the Hon'ble Supreme in the case laws upon which the management relies.

34. Incidentally after perusing the written argument of both the parties practically we have come to a point that the punishment imposed upon the concerned workman for the alleged offence is disproportionate.

35. It is needless to say that to assess the same we have to see wordings, nature, reason, impact, result and consequences of the words used by the concerned

workman to the concerned officer as alleged. For the same let us scrutiny the enquiry record for coming to a conclusion whether the punishment of dismissal parallel to punishment of death sentence of ordinary criminal law is justified even if it is proved that the concerned workman committed misconduct specially when for causing the misconduct there are gradation of punishment for the gradation of the gravity of the misconduct even in the Standing Order upon which we are to rely.

36. In the chargesheet I find that the following words are alleged to be used by the concerned workman to the concerned officer over telephone on 1-6-92 while he was on duty to the Bungalow of the officer over telephone having no provocation thereto.

"On 1-6-92 you were in 'B' shift duty starting from 3.00 P.M. to 11.00 P.M. in opencast Mine of Chasnala North Mine in PEI pocalin and about 6.45 P.M. you left your place of work and when Sri R.C.K. Sharma, Asstt. Supdt. North Mine reached his bungalow from his duty, you phoned him from the office of the Supdt. North Mine and without any provocation you began to abuse him in filthy language as 'Bhosariwala, Sala Bahanchod, Matherchod Tumko Sala Hum Dekh Lenge Kal'.

In Ext. M-2 the explanation of the concerned workman goes to show that the said charge is false and motivated and he has stated further only a madman can abuse, threaten in the manner as stated in the chargesheet and he invited for the enquiry if requires etc.

37. It may be mentioned at the present moment that no specific argument about the legality and validity appointment of the Enquiry Officer etc. were made.

38. Now I am to see whether at all those wordings were used by the concerned workman and if so under which background it was done so as because the words appearing in the chargesheet itself and the gravity of the same should be weighed keeping in mind the status, place of work, atmosphere of the society where from the said workman hails. Incidentally it may be pointed out that the word which is most unmannerly derogatory, humiliating, unwarranted and uncommon against the decorum etc. are very commonly and frequently used by the persons belonging to different class or society and in some cases we cannot ignore that fact that a person of general society when feels shaky to use any word to other person that is used amongst sons/daughters/parents and nearest relatives very frequently without any hesitation as because in their society that is not unnatural and uncommon which becomes highly derogatory amongst the persons belonging to some higher society. Thereby the gravity of assessment of using of words varies from person to person, society to society, atmosphere to atmosphere and on that background we have to judge the case when we are deciding the case of the workman who are not expected to come from the high society but from a society where we generally have no access nor any occasion to get any access.

Even I shall not be wrong to say that the persons belonging to that society did not see the light of such civilisation by which we the people are guided whatever reason might be behind it and without blaming any person for the backwardness of that society even after lapse of long terms from the time of acquisition of civilization which is still now the monopoly of certain classes of people.

39. On perusal of the enquiry report I find that three witnesses were examined from the side of the management out of which the evidence of two witnesses namely, R.C.K. Sharma, Asstt. Supdt., and Hanuman Prasad Sharma, Jr. Manager working as shift incharge can be looked into as MW-3 did not appear finally facing cross-examination and his evidence has been expunged thereby.

40. On the other hand the concerned workman examined himself and also examined other witnesses in support of his case. Besides oral evidence I find the evidence of witnesses already mentioned which are stated in nutshell.

41. MW-1 Mr. R.C.K. Sharma deposed in support of the charge and the filthy language alleged to be addressed to him such as "Bhosariwala, Sala, Bahanchod, Madarchod, Tumko Sala Kal Hum Dekh Lenge-Aawo Office Me" over telephone. MW-2 Hanuman Prasad Sharma supported him but he has admitted about the mis-fire virtually which is the seed bed of this problem. WWS also supported the fact that there was some trouble in the mine in the matter of mis-fire and that was attended but did not come to proper form.

42. It is a fact that as there was mis-fire in the plants some workers left the job and left the place of work and there was stoppage of the work.

43. Now the question is whether the workmen are to be forced to work at the cost of his life when any sign of problem endangering their lives smells. Specifically we cannot forget the incident at chasnala which swallowed so many lives and still which is pending in that locality.

44. No doubt this fact makes the workmen more alert in comparison of other mines and other places of job. Of course, thereby no workman is entitled to abuse any filthy language to his superior officer and that cannot be encouraged in any manner.

45. At the same time it would be unjust to punish a workman to the highest tune for using the language though unparliamentary which is generally used by them amongst themselves in their society in normal course of their life. Of course it brings down the prestige of an officer who is not accustomed with such type of language.

46. From the evidence of the MWs there was no reason or provocation from the concerned workmen who came to the office to talk with the officer over telephone.

47. Even for the sake of argument if it is accepted that he abused the officer in filthy language then we have to consider that aspect with rational approach keeping the background the problem of the fire as it

has transpired in course of enquiry. With utmost effort the management could not wipe out the alleged abnormality of the fire in the concerned pit which was raised by the concerned workman. It also appears from the enquiry proceeding that he was not alone many persons visited MW's office and they were standing outside though he could not say the names of all those persons. It is also not undisputed that on three occasions there was inspection for atleast three days to repair and remove the defects in the fire. If that be so then let us consider the aspect with rationality not keeping ourselves confined that a worker has abused officer and thereby he should be hanged right now. Of course no excess can be encouraged but excess should be penalised for giving appropriate punishment not by awarding the highest punishment.

48. One thing we cannot ignore the alleged incident for which this trouble arose and which led the concerned workman to come to the office and to talk with the superior officer over telephone.

49. It is hard to believe that a person without having any mens rea abuses his superior officer knowing fully well that certainly he may be victimised and punished for his such act. Nowhere it is in evidence that he had any better relation with the superior officer to whom he is alleged to have used the said filthy language nor any motive is suggested to raise such non-existence of fire and mechanical defect for which he rushed to the office.

50. Only thing it can be presumed that they were afraid of their lives specially for continuous defect in the fire and for the safety and security of their lives being a mouthpiece of workers he took up the matter and came to the shift incharge and lastly he tried to contact the superior officer who is MW-1. If there was no provocation on his side it is very unexpected that he will right now abuse any superior in filthy language unless and until he is instigated or abnormally or he used such language which provoked him. We should not forget with the conversation between the concerned workman and the officer over telephone. The persons standing on the other side were not able to hear what talk was made in the telephone from other side similarly persons standing on the side of the concerned workman was not able to hear what was spoken by the officer on the other side. It can only be said by two persons only who talked between themselves. Of course, the concerned workman never told that he received any objectionable word from the side of the officer but he denied that he used any such word.

51. In his context I cannot but comment that when other workers were standing beyond the door of the office room of MW-2 why any of them was not examined to corroborate the allegation made in the chargesheet against the concerned workman. Also what prevented the management to examine the Mining Sirdar or any person of that place to establish the fact that the reason for which the concerned workman rushed to the office of MW-2 and talked with MW-1 over telephone was concocted one and it came with a false plea and left the place of work having no ground whatsoever.

52. Therefore after assessing all the facts and circumstances I have no hesitation to hold that there was some mechanical defect in the matter of blasting and fire by which they became afraid and for the same

his workman as a mouth piece came to the office of MW-2. But my point is that when it is accepted for this moment that there was such defect in the blasting then there was scope for stopping the work which they did as because the work is not physically done by MW-1 or by any officer of the colliery but it is done by the workman who work in the underground or in the matter of blasting or related to it. But if any complaint is not attended then no workman can be allowed to take law in his own hand even if their just cause is denied by the management as because law does not permit any person to take the law in his own hand to give lesson to the other person.

53. Now the point is whether the extent of the allegation can be accepted totally. In that context I am of the opinion that in course of hot exchange there is no reason to disbelieve that the concerned workman used such abusive language being irritated and being afraid of their lives for such mechanical defect and being getting no help from the side of the management and thereby it is held that was the reason which provoked him to use such language under such peculiar and dangerous circumstances. About the threat for using the word "Tumko Sala Hum Dekh Lenge Kal" I propose to mean that the threat was not for endangering his life but no doubt it is a threat for not paying any heed by the said officer for the life of so many workers who spend their major part of their life for raising coal for the management though of course in lieu of money.

54. We also should not forget that the persons who are engaged in such type of work we cannot expect a polite and sweet sounding words specially when they are irritated thereby considering their status etc. and the situation as stated earlier so I think that though abusive language were used by the concerned workman cannot be said having no provocation and for leaving the place of work to complain the situation which they were facing cannot be an offence as alleged by the management. Of Course, it may be argued that the workman could have stopped the work and would remain of the place of work without leaving that place for awaiting the decision of the management. But we can not ignore it specially when it is alleged that there was danger of life and there was apprehension of something more due to mechanical defect which is virtually going to be admitted by the management's witnesses too.

55. Therefore considering the aforesaid materials, facts and circumstances though I accept that literally and strictly this concerned workman can be charged for leaving the working place without permission but it cannot be said that it was without sufficient reason. At the same time the threatening abusing etc. which has been alleged against the concerned workman is not without provocation but under peculiar circumstances. So following the decisions of the management himself as pointed in written argument that this cannot be treated to be insubordination or pre-planned or made in pre-planned way with a view to cause insult knowing to cause mental torture to the controlling officer incharge of the management having no provocation thereby and thus the management cannot get help of the case laws cited reported in SCLJ Vol. II at page 1403, SCLJ VOL. XI at page 311. On the

other hand the workman is entitled to get the benefit of the case laws cited by the workmen side reported in SCLJ Vol. 84-87 and SCLJ Vol. 88-90 at page 1392. However, we should not be forgetful that a trend has come in the industrial belt specially to disobey the superior officer being backed by a particular section and having a tendency to take the law in their own hand sometimes without any reason. So some restraints should be made from the side of the Court so that a workman be not able to form an opinion that they have right to leave the place of work at their sweetwill and to enforce the management irrespective of their inconvenience and if this goes on obviously a day will come when the entire infrastructure of the industry will fall down and all industries will become sick industries.

56. Keeping that view in my mind and also considering the situation of the present case and giving some leniency considering the status etc. of the concerned workman as observed earlier invoking my power under Section 11A of the I.D. Act, 1947 I set aside the order of dismissal of the concerned workman and I order his reinstatement from the date of his dismissal but I disallow his full back wages as claimed, with further warning that the concerned workman amend himself in future.

57. In this premises we do not have any evidence what this concerned workman used to do within this idle period. It may be that he had some earning and if any earning be made in the meantime that should be adjusted from the wages of the idle period. As such fact is not known to me, considering the facts of convenience and inconvenience of both the workmen and the management besides the order of reinstatement I direct the management to pay to the concerned workman 25 per cent of his back wages only. It is ordered further that he would be given all increments and amenities and other facilities which have accrued in the meantime giving the reinstatement on the date of dismissal and giving effect of his notional fixation from that date and fixing his present wages including all enhancement, increments etc. accrued in the meantime on the date of his reinstatement and without breaking his service and also keeping his seniority in the service in all manners. The management is directed to implement this award and to pay the back wages as ordered in the terms as stated above within one month from the date of publication of this Award.

This is my Award.

D. K. NAYAK, Presiding Officer

नई दिल्ली 5 जुलाई, 1996

का. आ. 2266.—आंदोलिक विवाद अधिनियम 1947 (1947 का 14) की वारा 17 के अनुसरण में केन्द्रीय सरकार सेन्ट्रल कोल फैल्ड लि. के प्रबंधनतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट आंदोलिक विवाद में केन्द्रीय सरकार आंदोलिक अधिकरण धनबाद नं. 2

के पंचमठ का प्रयोग करती है जो केन्द्रीय सरकार को को प्राप्त हुआ था।

[संख्या एल 20012/266/93- आई आर (कोल-I)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 5th July, 1996

S.O. 2266.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Dhanbad No. 2 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Coalfield Ltd. and their workmen, which was received by the Central Government.

[No. L-20012/266/93-IR|Col-I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri D. K. Nayak, Presiding Officer
In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act., 1947.

Reference No. of 1975

PARTIES :

Employers in relation to the management of
Central Coalfield Ltd. and their workmen.

APPEARANCES :

On behalf of the workman : None.

On behalf of the employers Shri B. Joshi, Advocate.

STATE Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 14th June, 1996

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to his Tribunal for adjudication vide their Order No. L20012(266)/93-IR.C.I. dated, the 16th February, 1995.

SCHEDULE

“Whether the action of the management of M/s. Central Coalfields Ltd. Darbhanga House, Ranchi is justified in not giving promotion/upgradation to Shri Balehswar Mabato to Cat. V w.e.f. 28-7-91? If not, to what relief the workman is entitled and from what date?”

2. Soon after the receipt of the order of reference notices were duly served upon the parties. The workmen did not turn up but only the management made his appearance to this Tribunal through Mr. B. Joshi, Advocate. Thereafter the case proceeded along with its course, and notices were again issued to the work-

men. In spite of the issuance of notice to the workmen, they neither turned up nor took any steps. It therefore leads me to an inference that there is no dispute at present existing between the workmen and the management. Under the circumstances, I am constrained to pass a 'No dispute' Award in this reference.

D. K. NAYAK, Presiding Officer